

**Exhibit 6B**

August 1, 2014 Michael Plummer Deposition Transcript

Michael Plummer  
IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

In Re: ) Chapter 9

CITY of DETROIT, MICHIGAN, ) Case No. 13-53846

Debtor. ) Hon. Steven Rhodes

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Videotaped Deposition of MICHAEL PLUMMER

Taken at: Weil, Gotshal & Manges, LLP

767 Fifth Avenue

New York, New York

Commencing at 9:03 a.m.

Friday August 1, 2014

Before Roberta Caiola

1 Michael Plummer  
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JOSE RIVERA - Video Technician

1 Michael Plummer  
2 A P P E A R A N C E S:  
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<p style="text-align: right;">Page 5</p> <p>1 Michael Plummer  2 THE VIDEOGRAPHER: This is media  3 unit number 1 in the video deposition of Michael  4 Plummer, in the matter of In Re: City of  5 Detroit Michigan, Debtor, in the United States  6 Bankruptcy Court for the Eastern District of  7 Michigan, Case Number 13-53846.  8 This deposition is being held at  9 Weil, Gotshal &amp; Manges LLP, 767 Fifth Avenue,  10 New York, New York on August 1, 2014 at  11 approximately 9:03 a.m.  12 My name is Jose Rivera from the  13 firm of Elisa Dreier Reporting Corp., and I am  14 the legal video specialist. The court reporter  15 is Roberta Caiola, in association with Elisa  16 Dreier Reporting Corp., located at 950 Third  17 Avenue, New York, New York. For the record,  18 will counsel please introduce themselves.  19 MR. IRWIN: Geoff Irwin, with Jones  20 Day, on behalf of the City of Detroit and the  21 witness.  22 MR. O'REILLY: Arthur O'Reilly, on  23 behalf of the Detroit Institute of Arts.  24 MR. RUEGGER: Arthur Ruegger, from  25 Dentons, on behalf of the Retirees Committee.</p>	<p style="text-align: right;">Page 7</p> <p>1 Michael Plummer  2 EXAMINATION BY MR. SOTO:  3 Q. Mr. Plummer, my name is Ed Soto.  4 Could you please state your full name for the  5 record?  6 A. Michael John Plummer.  7 Q. Now I'm going to hand you what has  8 been marked as Exhibit 1.  9 (Plummer Exhibit 1, Notice of  10 Deposition, marked for identification.)  11 Q. Which is a copy of the Notice of  12 Deposition that you were served with in this  13 matter. Have you seen this before?  14 A. Yes, I have.  15 Q. Actually, I'm only giving it to you  16 because these exhibits were pre-marked, and if I  17 don't give it to you then one is out of sequence  18 and we have to re-mark them all. You might want  19 to take a quick look at it and make sure it's  20 the same notice that you received?  21 A. It looks to be the one.  22 Q. Mr. Plummer, have you ever been  23 deposed before?  24 A. No, I have not.  25 Q. Typically the way it works is I</p>
<p style="text-align: right;">Page 6</p> <p>1 Michael Plummer  2 MR. SOTO: I'm Ed Soto and this is  3 Debora Hoehne, we're here from Weil Gotshal &amp;  4 Manges on behalf of FGIC.  5 THE VIDEOGRAPHER: On the phone?  6 MR. SOTO: Does anyone on the phone  7 want to make an appearance?  8 MR. PATTWELL: Michael Pattwell,  9 Clark Hill, on behalf of the Detroit Retirement  10 Systems.  11 MS. BUONOME: Lauren Buonome, of  12 Jones Day, on behalf of the City.  13 MR. ARNAUD: Hiram Arnaud, from  14 Chadbourne &amp; Parke, on behalf of Assured  15 Guaranty Municipal Corporation.  16 THE VIDEOGRAPHER: Will the court  17 reporter please swear in the witness.  18 THE COURT REPORTER: Raise your  19 right hand please. Do you swear the testimony  20 that you are about to give will be the truth,  21 the whole truth, and nothing but the truth?  22 THE WITNESS: Yes, I do.  23 MICHAEL PLUMMER, having been duly sworn by the  24 Notary Public, Roberta Caiola, was examined and  25 testified as follows:</p>	<p style="text-align: right;">Page 8</p> <p>1 Michael Plummer  2 will ask you a question, the court reporter will  3 take it down, transcribe it in a magical way,  4 and then we'll wait for your answer, and she'll  5 also transcribe your answer. It has to be done  6 verbally and linear so that if I am talking I  7 have to stop, then you get a chance to talk,  8 then when you stop I get a chance to talk.  9 If I cut you off let me know, tell  10 me. I try to overcome that habit and I've done  11 a good job of it, but sometimes not, she can't  12 take two people down at the same time.  13 A. I understand.  14 Q. The other thing is I tend to be a  15 nodder, sort of a grunter and a nodder and a huh  16 guy, that's the way I naturally talk, but in  17 transcription you have to speak verbally, you  18 have to say yes, no, otherwise they won't take  19 the nod.  20 Sometimes good reporters will  21 actually say he nodded yes, at which point I  22 will say that looked like a no to me and that  23 creates the controversy, we don't want that, we  24 want a straight clean record.  25 If at any time I ask you a question</p>

2 (Pages 5 to 8)

<p style="text-align: right;">Page 9</p> <p>1 Michael Plummer  2 that you don't understand tell me. I am not an  3 expert in this area, you will soon see that, and  4 you are, or certainly purport to be. So there  5 may be some things that I am saying that you're  6 not understanding, say so, I will try to  7 rephrase it, we'll try to work at it. My goal  8 here today is to get a deeper understanding of  9 your expert report and your expert  10 qualifications and then move on from there.  11 If at any time you feel you want a  12 break you have a right to do that, just say so  13 and we'll be able to take a break, it's not a  14 marathon hopefully. It may be a marathon but it  15 certainly doesn't require no breaks. If you at  16 any time want to talk to your counsel you have a  17 right to do that as well.  18 Generally, I will ask you to finish  19 the question that's pending, but not always, so  20 just tell me if you have the urge to do that.  21 Finally, if there is anything that you find an  22 hour into the deposition well, you know, I  23 forgot a guy's name that I should have told you  24 before, feel free to say I thought about the  25 question you asked me an hour ago.</p>	<p style="text-align: right;">Page 11</p> <p>1 Michael Plummer  2 be Detroit.  3 When I refer to the DIA or the  4 museum, I'll be referring to the Detroit  5 Institute of Art Museum that's owned by the City  6 of Detroit. When I refer to the DIA Corp.,  7 which I'm not sure I will, but if I do it's the  8 nonprofit DIA Corp. that runs the Detroit  9 Institute of Art.  10 Sometimes I'll refer to the art or  11 the art collection, and I know in your world  12 there are many arts and art collections, today  13 I'll be referring to the art and the art  14 collection that's stored at the DIA museum.  15 Do those make sense to you?  16 A. Yes.  17 Q. Let me get started with some  18 background on you. Where did you go to school,  19 college?  20 A. The Wharton School at the  21 University of Pennsylvania.  22 Q. That was for what degree?  23 A. A B.S. in economics.  24 Q. Did you have any other majors,  25 other than economics?</p>
<p style="text-align: right;">Page 10</p> <p>1 Michael Plummer  2 I will assume that you're answering  3 the questions based on your personal knowledge,  4 unless you tell me so. If you do tell me it's  5 not my personal knowledge I may choose to go on  6 on that basis; otherwise we'll be assuming that  7 you're answering questions based on your  8 personal knowledge.  9 Is there any reason that you can  10 think of that you wouldn't be able to give a  11 full and complete and truthful deposition here  12 today?  13 A. No.  14 Q. So throughout the deposition I'll  15 use certain terms, and I want to make sure that  16 we have sort of the same understanding of those  17 terms because some of them are fairly general,  18 and you wouldn't have that same understanding  19 unless you were embedded in this litigation like  20 some of us.  21 When I refer to the "City" I'm  22 probably going to be referring to the City of  23 Detroit. If I'm not I'll let you know I'm  24 referring to another city. In the questioning  25 when I talk about the City or the Debtor it will</p>	<p style="text-align: right;">Page 12</p> <p>1 Michael Plummer  2 A. I had a minor in English literature  3 concentration.  4 Q. When did you get your degree from  5 Wharton?  6 A. 1980.  7 Q. Did you receive any postgraduate  8 education?  9 A. No, I did not.  10 Q. Do you have any formal art  11 training?  12 A. I studied art at Penn, but I do not  13 have no other formal training.  14 Q. Do you have any formal art  15 appraisal training?  16 A. No, I do not.  17 Q. Are you a licensed or certified  18 appraiser?  19 A. I am not.  20 Q. Are there such things, licensed and  21 certified appraisers?  22 A. There are; not licensed but  23 certified.  24 Q. Do you have any other professional  25 licenses or certifications?</p>

1 Michael Plummer

2 A. I actually have a real estate  
3 salesperson's license.

4 Q. Are you a member of any  
5 professional organization?

6 A. I am a founder of the Art  
7 Investment Council.

8 Q. What is the Art Investment Council?

9 A. The Art Investment Council is a  
10 not-for-profit group that promotes best  
11 practices in the art investment industry in art  
12 investment.

13 Q. When did you start?

14 A. In 2010 I believe, some time in  
15 that time frame.

16 Q. Why did you start it?

17 A. My business partner and I started  
18 it because we felt that there was a need for  
19 this because there was a lot of misinformation  
20 about art investment, and we started it to  
21 create a place to exchange knowledge and raise  
22 the standard of practices and discussion about  
23 art investment.

24 Q. How many members does the art  
25 investment council have?

1 Michael Plummer

2 A. I don't remember exactly. It may  
3 be about 20 something.

4 Q. Are these scattered around the  
5 country?

6 A. No, it's focused here in New York  
7 City.

8 Q. How often does the Art Investment  
9 Council meet?

10 A. We have not had meetings for about  
11 a year because my partner and I have had other  
12 obligations.

13 Q. When you refer to your partner who  
14 are you referring to?

15 A. His name is Jeff Rabin who  
16 co-founded Artvest Partners with me.

17 Q. Have you through the Art Investment  
18 Council promulgated any standards for art  
19 investment?

20 A. Promulgated standards, no; but we  
21 have discussed issues like transparency and art  
22 investment fund practices and other things.

23 Q. Have you published anything through  
24 the Art Investment Council?

25 A. I don't believe so.

1 Michael Plummer

2 Q. Do you have a site online or  
3 anything like that?

4 A. We do have a website.

5 Q. What's that website?

6 A. I think it is the  
7 ArtInvestmentCouncil.com.

8 Q. Do you believe that any of your  
9 work with the Art Investment Council is relevant  
10 in connection with your proposed testimony in  
11 this action, the Detroit bankruptcy proceedings  
12 that we're here on for this deposition?

13 A. I think the experience that led to  
14 my founding the Council is relevant.

15 Q. In what way?

16 A. In my knowledge of art investment  
17 and my understanding of the art world and my  
18 understanding of practices around that.

19 Q. I think we'll get to that during  
20 this deposition, if we don't we can come back to  
21 it.

22 A. Okay.

23 Q. What about your employment history.  
24 After college, where did you first work?

25 A. I started at Sotheby's in the

1 Michael Plummer

2 treasury department.

3 Q. What does the treasury department  
4 at Sotheby's do?

5 A. The treasury department extended  
6 credit and approved buyers. My job was an  
7 account manager and I managed relationships with  
8 dealers, meaning members of the trade and  
9 clearing them for trade credit, collecting money  
10 from them.

11 Q. How long --

12 A. Sorry, also managing an art loan.

13 Q. That's interesting. How does one  
14 manage an art loan?

15 A. You make interest calculations, you  
16 manage the inventory, you make sure that  
17 insurance payments are made by the dealers, you  
18 manage sales of property to pay down principal,  
19 you do inventories of the collection that are  
20 held in-house.

21 Q. How does it work, does a person get  
22 a loan based on the art as collateral, is that  
23 essentially it?

24 A. Yes, correct.

25 Q. Who holds the collateral?

1 Michael Plummer  
 2 A. Generally speaking, in this case it  
 3 is the auction house or the lender.  
 4 Q. So how long were you employed in  
 5 Sotheby's treasury department?  
 6 A. I think probably about 3-1/2 years.  
 7 Q. What department did you move on to  
 8 after that?  
 9 A. I moved on to become being the  
 10 business manager for the Asian Art division.  
 11 Q. What were your duties as the  
 12 business manager of the Asian Art division?  
 13 A. Basically, there were many duties,  
 14 but the most important one was doing financial  
 15 forecasts for the company, for that area of the  
 16 company. So I would work with the specialists  
 17 and get their estimates for upcoming sales, and  
 18 then work with them to set the values of those  
 19 sales on which the business would make its  
 20 decisions for operating expenditures and  
 21 financial forecasts. It was not dissimilar to  
 22 working with a group of experts on an appraisal.  
 23 Q. In connection with your work as the  
 24 business manager did you perform appraisals?  
 25 A. No, I did not.

1 Michael Plummer  
 2 Q. Did you work with people who  
 3 performed appraisals?  
 4 A. I did.  
 5 Q. Did you manage them?  
 6 A. I did manage them, yes.  
 7 Q. Was that your first experience  
 8 working with art appraisers?  
 9 A. Well, as an account manager in the  
 10 treasury department I also had a close  
 11 relationship with the experts. So I did work  
 12 with them in that capacity as well.  
 13 So, for instance, with that art  
 14 loan that was reliant on appraisal of that art,  
 15 and those appraisals had to be updated and I had  
 16 to get those appraisals from the experts.  
 17 Q. The experts are the appraisers?  
 18 A. Yes.  
 19 Q. You call them the experts. Is that  
 20 what they're called in the industry?  
 21 A. Well, they used to be called that  
 22 and I still hold on to that old terminology;  
 23 they now call them specialists.  
 24 Q. That's interesting, the experts.  
 25 Nobody calls me that. Let's see, where were we.

1 Michael Plummer  
 2 So you were the business manager  
 3 overseeing the Asian Art for how long?  
 4 A. I believe it was around three  
 5 years.  
 6 Q. After your term as the business  
 7 manager of Asian Art what was your next job at I  
 8 guess Sotheby's?  
 9 A. I moved over to the real estate  
 10 division and worked closely with the CEO and CFO  
 11 of Sotheby's to restructure the real estate  
 12 company.  
 13 Q. What was the year you moved over to  
 14 the real estate division?  
 15 A. I haven't looked at my resume for a  
 16 while, but I think it was maybe '88, somewhere  
 17 around there.  
 18 Q. So working backwards, it would have  
 19 been about '85 that you began at Asian Art?  
 20 A. Yeah. Asian Art was not just Asian  
 21 Art, it was also books and manuscripts and other  
 22 departments, but it was called the Asian Art  
 23 division; it was a catchall for various  
 24 categories.  
 25 Q. Those categories included what

1 Michael Plummer  
 2 forms of art?  
 3 A. They included Asian Art, Ancient  
 4 Art, African Art, what was then called Arcade,  
 5 books and manuscripts, prints, photographs; so  
 6 it was a rather large part of the company.  
 7 Q. What does Arcade include?  
 8 A. Arcade was the low end sales area  
 9 of the business.  
 10 Q. What does that mean, the low end  
 11 sales area?  
 12 A. It was, you know, estate property  
 13 that was a catchall. It was stuff that was not  
 14 put in dedicated specialist sales.  
 15 Q. So then it would have been about  
 16 '82 when you were starting at the treasury  
 17 department?  
 18 A. No, it was 1980.  
 19 Q. So it was '80?  
 20 A. The fall of 1980.  
 21 Q. If that was '80, then it would have  
 22 been about '83 that you started in the Asian Art  
 23 division?  
 24 A. Maybe towards the end of '83.  
 25 Q. Okay. Then you were there three

1 Michael Plummer  
 2 years so it could have been '87, '88 that you  
 3 started at Sotheby's?  
 4 A. Yeah, that sounds about right.  
 5 Q. What did you do in '87, '88 for the  
 6 real estate division?  
 7 A. It was actually up through '91. I  
 8 worked, as I said closely, with the CFO and the  
 9 CEO of Sotheby's to restructure the real estate  
 10 company in preparation for Sotheby's going  
 11 public. It was critical that it be turned into  
 12 a profit-making company after many years of not  
 13 being successful.  
 14 So we were a small team that turned  
 15 it around and made it into a profitable venture,  
 16 and created the business model under which it  
 17 still operates today.  
 18 Q. What is that business model?  
 19 A. Well, I don't want to get into  
 20 revealing too much proprietary information, but  
 21 it was a restructuring of its licensing model  
 22 and its local brokerage operations and how they  
 23 function.  
 24 Q. When you were with the real estate  
 25 division of Sotheby's from 1987 or '88 through

1 Michael Plummer  
 2 1991, did you work with art appraisers?  
 3 A. During that period, no.  
 4 Q. Did you do any art appraisal  
 5 yourself during that period?  
 6 A. No.  
 7 Q. So after 1991 and your work with  
 8 the real estate division of Sotheby's, what did  
 9 you do next?  
 10 A. I then was recruited back to the  
 11 auction company to help them get control of  
 12 their expenses in marketing in light of the  
 13 recession that we were in, and I was ultimately  
 14 put in charge of marketing.  
 15 Q. Did you call it the auction  
 16 division?  
 17 A. Well, it was the auction company,  
 18 the auction subsidiary.  
 19 Q. What was the role of the auction  
 20 subsidiary?  
 21 A. To sell art. I was managing the  
 22 marketing department, initially certain aspects  
 23 of it and ultimately the entire department which  
 24 promoted the sales, the auction sales.  
 25 Q. What were your duties when you went

1 Michael Plummer  
 2 back to the auction subsidiary in connection  
 3 with the marketing; what marketing functions did  
 4 you do?  
 5 A. Managing sales, I'm sorry, managing  
 6 advertising, managing the production of  
 7 catalogs, managing the subscriptions, managing  
 8 promotion, managing marketing relationships with  
 9 all of the specialists and their plans for their  
 10 various auctions.  
 11 Q. In connection with tasks that you  
 12 just described, the advertising, the catalogs,  
 13 the subscriptions, the promotion and the  
 14 marketing relationships with specialists; which  
 15 of those tasks would you say put you in closest  
 16 contact with appraisal of artwork?  
 17 A. I did not -- that was -- appraising  
 18 was not part of my career at that point.  
 19 Q. When you went back to the auction  
 20 company in '91, how long did you stay in the  
 21 management of the marketing of that department?  
 22 A. Until the end 'of 95.  
 23 Q. So from '91 to '95 you managed the  
 24 marketing department of the auction subsidiary?  
 25 A. As I said, initially in '91 I

1 Michael Plummer  
 2 managed certain departments in marketing. By  
 3 '93 or so I was in charge of the division.  
 4 Q. During that entire period of time,  
 5 those four years, you were not involved in any  
 6 art appraising, is that correct?  
 7 A. No, I was not.  
 8 Q. You didn't oversee any art  
 9 appraisers at that time?  
 10 A. No, I did not.  
 11 Q. During that period -- well, let's  
 12 keep going. What did you do next?  
 13 A. Well, I mean what I did do was  
 14 oversee budgets related to the marketing and the  
 15 sales, and worked with the business managers of  
 16 which I was one, which was a critical part of  
 17 the cost control. It was very critical to that,  
 18 that I was on top of what the sales were and the  
 19 sales forecasting, because the marketing  
 20 expenses were closely related to the anticipated  
 21 sales results, which goes back to the forecasts  
 22 done with the experts. So I was working closely  
 23 with the experts and their valuations.  
 24 Q. Their overarching evaluations?  
 25 A. They are both overarching and also

1 Michael Plummer  
2 on an individual basis, because individual works  
3 of art can have a significant impact on the  
4 sale.

5 You get one or two objects or a  
6 certain collection and then you have to do  
7 marketing around those collections based on the  
8 values that are put on them.

9 Q. Did you ever get involved in  
10 directing a specialist, and again I'll use the  
11 same terms you're using; but for the purposes of  
12 this record whenever we use specialist or  
13 sometimes experts we'll be referring to  
14 appraisers, correct?

15 That works for me if that works for  
16 you.

17 A. I don't know. Even at an auction  
18 house I wouldn't refer to a specialist as an  
19 appraiser. They do appraisal work, but their  
20 primary job is as a specialist filling sales.  
21 So I'm not sure if that does work.

22 Q. Okay. Then maybe you can explain  
23 it to me. Are there below the specialists who  
24 or working with the specialists, and I don't  
25 know why I said below, it could be sideways,

1 Michael Plummer  
2 upwards, I don't care.

3 Are there people who work with  
4 specialists whose main job is the appraisal of  
5 art?

6 A. Both Sotheby's and Christie's have  
7 appraisal departments that manage the  
8 appraisals, and they often have generalists in  
9 those departments that do preliminary appraisal  
10 work, and then they take that work to the  
11 specialists in the various departments and get  
12 them to opine and final size valuations.

13 Q. So, if I'm misunderstanding you let  
14 me know. So there would be a specialist in a  
15 given genre of art, correct?

16 A. Yes.

17 Q. That specialist could go to someone  
18 at Sotheby's, since we're working through your  
19 period at Sotheby's so let's use that as an  
20 example, someone at the Sotheby's appraisal  
21 group?

22 A. Right.

23 Q. And say we're looking at a certain  
24 piece of art in this genre, do you have a person  
25 whose area of specialty in this genre to

1 Michael Plummer  
2 appraise this art, is that how it would work?

3 A. Take for example an antiquity  
4 collection, there would be a generalist who  
5 would have done some preliminary work in the  
6 appraisals department, and then they would go to  
7 the specialist in antiquities and then walk  
8 those numbers, those items, item by item or  
9 leave it on their desk and pick it up later,  
10 depending on the situation and the relationship  
11 with that specialist.

12 Q. Would the generalist in your mind  
13 be considered an appraiser?

14 A. Yes, sometimes; sometimes not.

15 Q. When would he be considered an  
16 appraiser?

17 A. Well, if he had done other  
18 appraisals and had been hired for that purpose.  
19 There might also be a junior person who might be  
20 in training.

21 Q. So if you went to the appraisal  
22 department at Sotheby's and talked to a  
23 generalist, would you consider that person an  
24 appraiser?

25 A. Possibly.

1 Michael Plummer  
2 Q. Again, what would the possibilities  
3 be?

4 Sometimes they wouldn't be an  
5 appraiser?

6 A. Depending on who you're talking to  
7 in the department it could be -- you have a  
8 department that has different staffs so there  
9 could be an administrator there, there could be  
10 a secretary.

11 Q. The specialists that you referred  
12 to in your description, your example, so the  
13 generalist may or may not be an appraiser and  
14 then he goes and he talks to a specialist. Is  
15 that specialist an appraiser?

16 A. Again, I think that I would refer  
17 to them as a specialist, not an appraiser,  
18 because their primary job is not doing  
19 appraisals, it's filling a sale, but they do do  
20 appraisal work.

21 Q. The reason why you go to that  
22 specialist is because they have specialized  
23 knowledge about the value of that art?

24 A. Correct.

25 Q. The specialized knowledge of the



1 Michael Plummer  
 2 value of that art would be used in forming the  
 3 appraisal, correct?  
 4 A. Correct.  
 5 Q. So you were in marketing and had  
 6 the relationships that you just described in  
 7 your marketing period of '91 to '95. What  
 8 happened next?  
 9 A. I left Sotheby's to run the U.S. --  
 10 the sales area of the U.S. division of  
 11 Acoustiguide, which was at the time the leading  
 12 audio tour provider to museums like the  
 13 Metropolitan Museum of Art, MoMA, the Boston  
 14 Museum of Fine Arts.  
 15 All were clients of mine and I  
 16 developed relationships with all of those  
 17 museums and worked with them on their  
 18 exhibitions, their temporary exhibitions and  
 19 their tours for their permanent collections.  
 20 Q. That was called Acoustiguide?  
 21 A. Acoustiguide, yeah.  
 22 Q. Can you spell that for the record?  
 23 A. A-c-o-u-s-t-i-g-u-i-d-e.  
 24 Q. So you worked with Acoustiguide for  
 25 how long, from '95 to '96?

1 Michael Plummer  
 2 A. For one year.  
 3 Q. During that year with Acoustiguide  
 4 did you do any art appraisal?  
 5 A. No.  
 6 Q. Did you work with any art  
 7 appraisers?  
 8 A. No.  
 9 Q. You mentioned that you had gotten  
 10 to know people at various museums.  
 11 Did you get to know anybody at the  
 12 Detroit Institute of Art?  
 13 A. No, they were not a client.  
 14 Q. So after '96 what did you do?  
 15 A. I went to work with a group called  
 16 Carbone Smolan Agency that we did the -- they  
 17 had worked with -- I had hired them to do the  
 18 re-branding of Sotheby's, when I was running  
 19 marketing at Sotheby's, and I worked with them  
 20 on a number of branding projects for financial  
 21 firms, as well as re-branded Christie's.  
 22 Q. Can you spell the name of that  
 23 company for the record he were?  
 24 A. Carbone, C-a-r-b-o-n-e; Smolan,  
 25 S-o-m, sorry, S-m-o-l-a-n Agency.

1 Michael Plummer  
 2 Q. How would you describe the work  
 3 that they do, are they just re-branding  
 4 specialists?  
 5 A. Re-branding marketing and design  
 6 communications.  
 7 Q. How long were you with them?  
 8 A. Approximately three years.  
 9 Q. So until about '99?  
 10 A. Yeah, that sounds right.  
 11 Q. During that period from '96 to '99,  
 12 or those three years, did you work on any art  
 13 appraisal projects?  
 14 A. I did not, but I did work closely  
 15 with Christie's and Christie's senior  
 16 management.  
 17 Q. What was your work with Christie's?  
 18 A. I was working with them to help  
 19 them determine what identity they wanted for the  
 20 company and how they were re-envisioning the  
 21 company for the future. So I worked closely  
 22 with the CEO and president, and even at one  
 23 point the new owner, Mr. Pinault.  
 24 Q. Can you spell his name for the  
 25 record?

1 Michael Plummer  
 2 A. Pinault, P-i-n-a-u-l-t.  
 3 Q. You mentioned the CEO and the  
 4 president. Who was the CEO?  
 5 A. Christopher Davidge.  
 6 Q. Who was the president?  
 7 A. Patty Hambrecht.  
 8 Q. Your work with them, did it involve  
 9 any art appraisals?  
 10 A. No, it did not.  
 11 Q. So we're now up to '99?  
 12 A. Um-hum.  
 13 Q. Where did you go after that?  
 14 A. I became -- I was self-employed. I  
 15 founded a company to create an online trading  
 16 platform.  
 17 Q. What was the name of that company?  
 18 A. It was called -- ultimately it was  
 19 called Art Base, Inc.  
 20 Q. How long did you do that?  
 21 A. For about three years.  
 22 Q. So until about 2002?  
 23 A. 2003.  
 24 Q. 2003. During your period of time  
 25 with Art Base, Inc. were you involved in any art

1 Michael Plummer  
 2 appraisal projects?  
 3 A. Well, I did do due diligence on an  
 4 appraisal company to buy it. It was actually  
 5 founded by a member of the triple A and was  
 6 designed to create online appraisal businesses,  
 7 do online appraisals. It was in financial  
 8 distress and it was brought to me as something  
 9 to buy. So I got -- you know, did a lot of due  
 10 diligence on the appraisal industry at the time,  
 11 as well as that company in particular.  
 12 Q. The name of that company was?  
 13 A. Eppraisals.  
 14 Q. E dash praisals?  
 15 A. I can't remember, it's been a  
 16 while.  
 17 Q. Eppraisals was a company that you  
 18 said was founded by a member of the triple A?  
 19 A. I believe so.  
 20 Q. And what's the triple A?  
 21 A. The Appraisals Association of  
 22 America -- Appraisers Association of America.  
 23 Q. The Appraisers Association of  
 24 America, is that involved in the appraisal of  
 25 art?

1 Michael Plummer  
 2 A. Yes.  
 3 Q. Is that strictly involved in the  
 4 appraisal of art?  
 5 A. I believe so.  
 6 Q. Did you end up buying Eppraisals?  
 7 A. No, I did not.  
 8 Q. How long did you do the due  
 9 diligence on that?  
 10 A. Several months.  
 11 Q. Would you say three to four months?  
 12 A. Possibly.  
 13 Q. Any more?  
 14 A. I don't remember, it's a long time  
 15 ago.  
 16 Q. So other than that three or  
 17 four-month due diligence with Eppraisals, did  
 18 you have anything to do with art appraisals in  
 19 connection with Art Base, Inc.?  
 20 A. I do not have -- I did not work on  
 21 any appraisals, but I had a number of clients at  
 22 Art Base, Inc. who were collectors and dealers  
 23 with whom I was very involved in their  
 24 collections and their inventories.  
 25 Q. So what was Art Base, Inc.; would

1 Michael Plummer  
 2 you try to sell art online, buy art online; what  
 3 would you do?  
 4 A. That was its ultimate ambition. It  
 5 was a software program that collectors and  
 6 dealers used, as well as a database of art  
 7 prices which was used by appraisers, which is  
 8 why the Eppraisals company was a logical fit, it  
 9 made sense logically.  
 10 Q. Did you develop the software  
 11 program?  
 12 A. No, I did not.  
 13 Q. Who did?  
 14 A. I don't remember.  
 15 Q. When you formed the company did you  
 16 acquire the software program?  
 17 A. Which software program are you  
 18 referring to?  
 19 Q. I asked you what Art Base, Inc.  
 20 does and you said its goal was to buy and sell  
 21 art, but initially it was a software program?  
 22 A. Yes. Okay. You're referring to  
 23 the Art Base software, I was not sure if you  
 24 were referring to that or Eppraisals. I did not  
 25 write that software though.

1 Michael Plummer  
 2 Q. Did Art Base, Inc. own the  
 3 software?  
 4 A. It did, yeah.  
 5 Q. What ultimately -- you said you  
 6 worked with collectors and dealers. In your  
 7 work with collectors and dealers did you do any  
 8 appraisals for them?  
 9 A. No, I did not.  
 10 Q. Did you work on any appraisal  
 11 projects for them?  
 12 A. No, I did not.  
 13 Q. Did you ultimately sell Art Base,  
 14 Inc. or did it just close down?  
 15 A. We made a deal with the founders to  
 16 return it back to them.  
 17 Q. The founders of Art Base, Inc., was  
 18 that a company?  
 19 A. Yes, it was a company.  
 20 Q. What was that company, the  
 21 founders?  
 22 A. Their company was originally called  
 23 Art Base without the ink.  
 24 Q. Were they based here in New York?  
 25 A. Yes.

1 Michael Plummer  
 2 Q. Are they still in business?  
 3 A. Yes, they are.  
 4 Q. Do they have a website?  
 5 A. Yes, they do.  
 6 Q. Do you know the site?  
 7 A. I think it's Art Base. I don't  
 8 know, I haven't been there for years.  
 9 Q. ArtBase.com?  
 10 A. Probably, possibly.  
 11 Q. After 2003 what did you do?  
 12 A. In 2003 I joined a company called  
 13 Fernwood Art Investments as the chief operating  
 14 officer and president.  
 15 Q. That's F-e-r-n-w-o-o-d. So Exhibit  
 16 B to your report, your CV says that you were  
 17 there from 2003 to 2006?  
 18 A. That sounds right, yes.  
 19 Q. Were you the CEO?  
 20 A. I was the president and COO.  
 21 Q. Who was the CEO?  
 22 A. A man by the name of Bruce Taub.  
 23 Q. In your work as the president and  
 24 COO of Fernwood did you do any work in art  
 25 appraisals?

1 Michael Plummer  
 2 A. No, we did not do art appraisals,  
 3 but we did some of the most I would say  
 4 pioneering work in analysis of the art sectors  
 5 and their behavior over the previous 25 years,  
 6 which was considered groundbreaking at the time.  
 7 Q. By the way, just so you know, this  
 8 is her typing so I get to read it if I can't  
 9 remember exactly what you said. There's no  
 10 special tool here other than her typing.  
 11 So when you refer to your  
 12 pioneering work and analysis in the art sectors,  
 13 what are you referring to?  
 14 A. I'm referring to a report that we  
 15 issued with our in-house economist which  
 16 described the performance of the different  
 17 sectors of the art market, which I refer to in  
 18 my expert report, such as the American Art  
 19 sector, the Impressionist and Modern Art sector,  
 20 those various sectors, and their behavior over  
 21 time, their growth in value, their decrease in  
 22 value, their investment attributes, their  
 23 volatility, their performance against the stock,  
 24 the equity markets, the S&P, other such things,  
 25 and their viability as investments and their

1 Michael Plummer  
 2 volatility.  
 3 Q. So in connection with that study,  
 4 the report that you just referred to in your  
 5 testimony, did you determine that there were  
 6 certain genres of art that were more volatile in  
 7 terms of --  
 8 A. We did.  
 9 Q. In terms of the nature of the  
 10 investment?  
 11 MR. IRWIN: Let him finish his  
 12 question.  
 13 Q. In doing that study or making that  
 14 determination, did you work with art appraisers?  
 15 A. We worked with art specialists who  
 16 did appraisal work from time to time.  
 17 Q. Those art specialists that did  
 18 appraisal work from time to time, what  
 19 information did they give you that was  
 20 ultimately used in your report?  
 21 A. They helped us choose the artists  
 22 who are used as part of the indices that we  
 23 created; they validated the results of the  
 24 report; they were a sounding board and quality  
 25 check to the process.

1 Michael Plummer  
 2 Q. In validating the results, what are  
 3 you referring to there?  
 4 A. Well, for example, we had signed up  
 5 as our expert team some of the leading dealers  
 6 in the industry. Take for example David Nash  
 7 who was a -- is a leading impressionist and  
 8 modern dealer, we would share the information we  
 9 compiled and our analysis, and he had been in  
 10 the industry at that time, he had run the  
 11 department at Sotheby's for 30 some years, and  
 12 he would validate the conclusions that we were  
 13 coming to, as would various other specialists in  
 14 those various categories.  
 15 Q. Would you consider David Nash a  
 16 specialist who you believe does appraisals?  
 17 A. I think he has done appraisals from  
 18 time to time, but his core work is running his  
 19 gallery and selling art; but he is one of the  
 20 most knowledgeable people that I would turn to  
 21 for that sort of information.  
 22 Q. In connection with your report on  
 23 volatility or your report in general, which  
 24 included some information on volatility; did you  
 25 update that report over the years?

1 Michael Plummer  
2 A. I did in a different form when I  
3 moved to Christie's. We used that work at  
4 Christie's as the foundation for our work for  
5 creating an art fund with Goldman Sachs and used  
6 that work, shared that work with Goldman Sachs  
7 who vetted it.

8 Q. I'll get to that chronologically as  
9 we move on.

10 A. Sure.

11 Q. The first report came out in what  
12 year?

13 A. Maybe 2004 or '05.

14 Q. When did you update it?

15 A. Probably 2007, '08.

16 Q. So you updated it after you left  
17 Fernwood?

18 A. Yes.

19 Q. In connection with the work you  
20 just described that you did the Fernwood, you  
21 created this pioneering report. What else did  
22 you do?

23 A. We also structured two art funds  
24 and I hired the specialist staff for Fernwood,  
25 who were the advisors to Fernwood on -- would

1 Michael Plummer

2 A. Yes.

3 Q. Is that the typical cycle that you  
4 need to hold art in order to make the kind of  
5 profits you're looking for?

6 A. Some would hold it for longer.  
7 There were constraints on investor expectations  
8 on getting returns, so we went out with five to  
9 eight years for marketing purposes, but we had  
10 the ability to extend the holding period to  
11 maximize returns.

12 Q. In your first art fund how much did  
13 you raise?

14 A. We didn't because the art fund ran  
15 into trouble.

16 Q. What was that?

17 A. I uncovered malfeasance on the part  
18 of the CEO, that he had taken investor funds  
19 from the company and used them for his personal  
20 means.

21 Q. This is the company Fernwood?

22 A. Yes.

23 Q. So the first art fund you formed  
24 didn't really get off the ground?

25 A. No.

1 Michael Plummer  
2 have been for the purchases of art for the fund.

3 Q. Let's break that down. So you  
4 structured two art funds?

5 A. Right.

6 Q. Let's just take them one at a time.  
7 What was the first?

8 A. The first was a sector fund which  
9 was devised to invest across the different  
10 sectors of the art market, from Old Master  
11 paintings up through emerging contemporary art.

12 Q. An art fund is essentially what, a  
13 collection of funds that is intended to be  
14 invested in art?

15 A. They can take many forms, but in  
16 this instance it was a fund devised to accept  
17 investments at a minimum of \$250,000 up to I  
18 think 1 million. That would be put into a pool,  
19 that would be used to invest art and the art  
20 would be held or was anticipated to be held for  
21 about five to eight years.

22 Q. And then to be sold off for profit?

23 A. Correct.

24 Q. How long did you say? I should be  
25 able to find it here, five to eight years?

1 Michael Plummer

2 Q. What about the second one?

3 A. The company went under. There two  
4 funds at that time, we had gotten an approval  
5 from Merrill Lynch and gone through due  
6 diligence with them, but unfortunately I  
7 uncovered the malfeasance on the part of the CEO  
8 and collectively myself and the specialists  
9 resigned from the company.

10 Q. So neither of the art funds that  
11 you formed really got off the ground?

12 A. No.

13 Q. You have to say more than nod?

14 A. Okay. No.

15 MR. SOTO: We've been going about  
16 an hour, do you want to take a break?

17 THE WITNESS: Yes, sure.

18 THE VIDEOGRAPHER: The time is 9:52  
19 a.m., and we're going off the record.

20 (Off the record)

21 THE VIDEOGRAPHER: The time is  
22 10:03 a.m., and we are back on the record.

23 BY MR. SOTO:

24 Q. Mr. Plummer, I was interested in  
25 your description of the work that you had done.

1 Michael Plummer  
 2 Is there a way I can get a copy of  
 3 that report that you referred to, the pioneering  
 4 report?  
 5 A. I don't know. I'd have to look for  
 6 it, it's quite old.  
 7 Q. It depends what you mean by old.  
 8 It should be somewhere around 2004 or 2005, so  
 9 it would be about a decade old maybe?  
 10 A. Yeah, but a lot of the firm's stuff  
 11 is in storage or disappeared because it went out  
 12 of business.  
 13 Q. So you didn't keep a copy of the  
 14 report?  
 15 A. I may have a copy somewhere, I  
 16 would have to look for it.  
 17 Q. If you could I would appreciate it,  
 18 and I'll contact Geoff to see if we can get a  
 19 copy of it.  
 20 Again, you said it was updated  
 21 sometime around 2008 when you were working with  
 22 Christie's, correct?  
 23 A. Correct.  
 24 Q. If you can't find the original one,  
 25 maybe if you can find a copy of the updated one?

1 Michael Plummer  
 2 A. Well, the updated one was  
 3 Christie's information that was not issued  
 4 publicly, but used for its clients.  
 5 Q. So we can probably ask someone at  
 6 Christie's to see if they have a copy of it,  
 7 correct?  
 8 A. You could. I'm not sure if they  
 9 kept records of that stuff.  
 10 Q. Who did you work with when you were  
 11 at Christie's?  
 12 A. I worked with Jane Chesworth who  
 13 was then the COO. She has now left and Steven  
 14 Mendel who has also departed.  
 15 Q. Did you ever work with an  
 16 individual named Paul Provost?  
 17 A. At Christie's, yes.  
 18 Q. Would he have been knowledgeable  
 19 about the updated report that you were referring  
 20 to in your testimony?  
 21 A. I don't know.  
 22 Q. So we will be sure to ask him.  
 23 Moving on.  
 24 So the two structured art funds  
 25 that didn't get off the ground were one thing

1 Michael Plummer  
 2 you did during your period at Fernwood. What  
 3 else?  
 4 A. As I said, I believe I said I hired  
 5 the specialist team that we were employing to  
 6 make the selections for the art investment, to  
 7 work with us.  
 8 Q. That was when you started there in  
 9 2003 that you started to hire the team?  
 10 A. Um-hum.  
 11 Q. How many people were in that team?  
 12 A. I believe it was around eight or  
 13 nine.  
 14 Q. These eight or nine specialists as  
 15 I refer to them, were any of them appraisers?  
 16 A. I think some of them did appraisal  
 17 work from time to time, but more importantly  
 18 they were transactional experts in that they  
 19 were deeply embedded in the industry and had a  
 20 lot of transactional experience, knew how to  
 21 establish values for investing in art.  
 22 Q. When you say "establish values for  
 23 investing in art," what do you mean?  
 24 A. I mean making sure that we were  
 25 purchasing art that was at the right price that

1 Michael Plummer  
 2 the works would appreciate and give a return to  
 3 investors.  
 4 Q. How do you establish values for  
 5 investment in art, what's the first step that  
 6 you take?  
 7 A. Well, it's very similar to the  
 8 appraisal process, you would look at  
 9 comparables.  
 10 Q. So you would start by looking at  
 11 comparables. Then what else would you do?  
 12 A. You would, well you'd look at the  
 13 subject work and you would examine it closely to  
 14 determine if it was what it purported to be, or  
 15 reported to be. Then you might have a  
 16 discussion, or might not depending on the  
 17 circumstances, with others in the industry about  
 18 information that might not be publicly  
 19 available.  
 20 Q. What type of information?  
 21 A. Other items that might be for sale  
 22 other places or on consignment, or might just  
 23 have been sold but not reported publicly.  
 24 Q. So other sales?  
 25 A. Other sales, other pending sales or

1 Michael Plummer

2 other consignments of similar works.

3 Q. When you use the word consignment  
4 can you tell the Court what you're referring to?

5 A. Consignment is when a work of art  
6 is given to a dealer or an auction house to be  
7 sold, but the ownership of it is still retained  
8 by the original owner and the title does not  
9 pass until a bill of sale happens or an auction  
10 occurs and the hammer falls.

11 Q. So in connection with establishing  
12 value they would look at some comparables, they  
13 would validate that the work is authentic I  
14 assume is what you were saying?

15 A. Yes.

16 Q. And then they would look at other  
17 sales that might not be public or other pending  
18 consignments?

19 A. Correct.

20 Q. That's the work of the specialists  
21 that you referred to?

22 A. Right.

23 Q. How would you distinguish that from  
24 the work of an appraiser?

25 A. I don't know that there is much to

1 Michael Plummer

2 distinguish except that they're not issuing an  
3 appraisal report, but they are doing a valuation  
4 that is critical to making and spending money,  
5 making an investment on a work of art.

6 What they're not doing is making  
7 any distinctions between fair market value or  
8 other such things.

9 Q. I see the distinction. So one of  
10 the distinctions is they're not preparing an  
11 actual appraisal report?

12 A. Correct.

13 Q. The other one would that they're  
14 not making distinctions in a form of appraisal,  
15 for example, a fair market value appraisal or an  
16 auction estimate appraisal?

17 A. Correct.

18 Q. But other than that they're valuing  
19 the art in similar fashion, correct?

20 A. They are actually establishing a  
21 fair market value, they're just not labeling it  
22 such and they're not issuing a report labeling  
23 it as such.

24 Q. Understand. So we are somewhere in  
25 2000, we're back at Sotheby's. Where are we, at

1 Michael Plummer

2 2003 maybe. No, 2006. You're done at Fernwood.  
3 Where do we go in 2006?

4 A. In 2006 I had a certain number of  
5 months off because Fernwood collapsed  
6 unexpectedly, but then I was hired by  
7 Christie's. They had been fascinated by -- the  
8 CEO of Christie's had been fascinated by the  
9 work I had been doing at Fernwood and they hired  
10 me to bring that over to Christie's and develop  
11 an art fund and an art lending business for  
12 Christie's, because Christie's had not had an  
13 art lending business prior to that even though  
14 Sotheby's had.

15 Q. So in 2006 or so when you went to  
16 Christie's they didn't have any art funds?

17 A. No.

18 Q. And they didn't have any art  
19 lending business?

20 A. No. They did have some art loans,  
21 but it was one-off situations and done for  
22 client relations, but they did not have an art  
23 lending business.

24 Q. So when you got to Christie's what  
25 department did they put you in or what did you

1 Michael Plummer

2 do?

3 A. It was a new division that I was  
4 hired to create and it was called Christie's  
5 Financial Services, and I was made Senior Vice  
6 President and Chief Operating Officer of the new  
7 division.

8 Q. Senior VP and COO?

9 A. Um-hum.

10 Q. What were your responsibilities as  
11 the senior VP and chief operating officer of  
12 Christie's financial services?

13 A. I had two different branches of  
14 responsibilities. One was to implement a best  
15 practices for underwriting art loans, also  
16 overseeing the adoption of KYC, know your client  
17 practices, and developing relationships with  
18 potential lending partners, other banks that  
19 would provide credit to use for the loans.

20 Then on the other side I was -- the  
21 other main division of responsibility was  
22 developing an art fund or a series of art funds  
23 for Christie's, in partnership with Goldman  
24 Sachs.

25 Q. In terms of your first area of

1 Michael Plummer  
2 responsibility you mentioned implementing best  
3 practices.

4 What were those best practices?

5 A. Well, they were -- they were  
6 understanding the art as collateral. Christie's  
7 was used to using art for auctions, but it was  
8 working with them and their appraisals  
9 department and their specialists to develop the  
10 right kind of approach to doing valuations for  
11 art loans.

12 Because when an auction house does  
13 an art loan they're doing it, what you would  
14 call it's a non-recourse loan in effect; so they  
15 have to be certain that they have setting the  
16 right values on the property so that if they  
17 have to liquidate it they won't take a loss.

18 It's a little bit different than  
19 doing a general appraisal or an auction  
20 estimate, because there is a higher level of  
21 risk for the auction house.

22 Q. The higher level of risk is that  
23 you could sell the art; you might not get the  
24 value of the loan and you have no recourse  
25 against the individual?

1 Michael Plummer

2 A. Correct.

3 Q. So all of the loans that you were  
4 working with were non-recourse to the individual  
5 borrower?

6 A. They might have recourse language  
7 in them, but the effect is if they were  
8 borrowing from an auction house, often the  
9 reality is that it is non-recourse.

10 Q. Because they don't have resources  
11 to back anything, is that your point?

12 A. Correct.

13 Q. You say you worked with the  
14 appraisal department and the specialists in  
15 connection with formulating these best  
16 practices.

17 What input did the appraisal  
18 department or specialists have with respect to  
19 the best practices?

20 A. Well, we were more or less telling  
21 them what we needed from them, how they needed  
22 to be different. They weren't really giving  
23 input back to us, except that they were worried  
24 about their additional workload and staffing  
25 needs, but we were telling them how we needed

1 Michael Plummer  
2 them to do things for us.

3 Q. What would you need from the  
4 appraisal department for an art loan that was  
5 different than, for example, what the appraisal  
6 department would do for an auction?

7 A. In terms of -- I think I just said  
8 that it was -- they would need to consider the  
9 fact that in their evaluation that they were  
10 secure that they were giving a low and  
11 conservative valuation in the event that if a  
12 work defaulted or if the borrower defaulted that  
13 Christie's would get its money back.

14 Q. So, in essence, you were telling  
15 them that look, in connection with the work you  
16 were doing with us on art loans, you have to be  
17 very conservative in your estimates?

18 A. Correct.

19 Q. Any other differences?

20 A. Well, and if you think it won't  
21 sell or it has potential to buy in we need to  
22 know that, or a high potential to buy in.  
23 Whereas, if Christie's is valuing property for  
24 any auction house for a seller and that property  
25 doesn't sell there is no risk to Sotheby's or

1 Michael Plummer

2 Christie's, it's the seller's risk. So it's --

3 Q. So the first -- finish, I'm sorry.

4 A. So it's just a different  
5 consideration.

6 Q. I want to make sure I understand.  
7 So one of the differences is there's a higher  
8 risk, and you wanted to make sure the appraisers  
9 were being conservative in their estimates  
10 because of the higher risk?

11 A. Yes.

12 Q. The other difference is if  
13 appraisers had some information regarding the  
14 marketability or the lack of marketability of a  
15 given piece of art, that they needed to share  
16 that because it was important that you would be  
17 able to sell the art as collateral if you needed  
18 to?

19 A. Right. This is an instance where  
20 BI considerations, bought-in considerations or  
21 unsold considerations are taken into account,  
22 when in general appraisal practices they are  
23 not.

24 Q. That's an interesting phrase that  
25 I'm not familiar with. BI considerations, or

1 Michael Plummer  
 2 buy-in as you put it before?  
 3 A. Right.  
 4 Q. What does that mean?  
 5 A. It means a certain percentage of  
 6 property in nearly every auction remains unsold,  
 7 and it can vary from as little as 10 or  
 8 15 percent up to 35 or 40 percent.  
 9 Q. What happens with that property in  
 10 connection with an auction that's just given  
 11 back to the owner, correct?  
 12 A. Sometimes. Sometimes it's marked  
 13 down and resold because the owner doesn't want  
 14 it back.  
 15 Q. But sold at a lower price?  
 16 A. But sold at a lower price.  
 17 Q. So the phrase "buy-in" means?  
 18 A. Bought in. It technically means  
 19 that the auction house is buying something back  
 20 in the auction on behalf of the seller at a  
 21 preset reserved price.  
 22 Q. That's new information to me. So  
 23 sometimes in connection with an auction, an  
 24 auction house will have a preset price at which  
 25 it will buy some of that art?

1 Michael Plummer  
 2 A. No, no, no, that's not what I am  
 3 saying. It is a -- a reserve price is a  
 4 pre-agreed upon price between the auction house  
 5 and the seller, at which the auction house will,  
 6 in their language, buy it back on behalf of the  
 7 seller. Meaning that they will take it back,  
 8 they will not sell it to somebody else below  
 9 that price so they will --  
 10 Q. Hold it for the seller?  
 11 A. Hold it for the seller.  
 12 Q. And then the seller just gets it  
 13 back?  
 14 A. Or re-offers it.  
 15 Q. Or re-offers it in another sale?  
 16 A. Correct.  
 17 Q. So that's what you meant when you  
 18 talked about the BI factor?  
 19 A. Correct. It's just auction  
 20 terminology. It's confusing, but that's how  
 21 they refer to it.  
 22 Q. Again, one of the differences is  
 23 that in connection with an art loan, you want to  
 24 be sure you can sell the art if you are taking  
 25 it as collateral, correct?

1 Michael Plummer  
 2 A. Yes.  
 3 Q. So other than being conservative  
 4 and getting more information on the  
 5 marketability or the salability of a given art,  
 6 was there any other difference, any other input  
 7 that you would get from the appraisal  
 8 department?  
 9 A. I don't recall.  
 10 Q. What about from the specialists;  
 11 other than those two things, did you get any  
 12 other information from the specialists?  
 13 A. Well, the specialists, we were  
 14 working to get them to promote lending to their  
 15 clients. So we were looking at them as sales  
 16 partners in building the business for us, and we  
 17 would meet sometimes with their clients and them  
 18 to, you know, propose art loans.  
 19 Q. In connection with these best  
 20 practices, and I don't know if this was part of  
 21 the practice at Christie's or part of your  
 22 practice; would you create a best practice  
 23 manual saying this is the way that we are going  
 24 to prepare to make an art loan and this is the  
 25 information we need if we're going to make an

1 Michael Plummer  
 2 art loan?  
 3 A. We had a very, very extensive  
 4 underwriting manual.  
 5 Q. That underwriting manual would  
 6 include what you had helped to put together in  
 7 terms of the best practices to make an art loan?  
 8 A. As I remember it, but I haven't  
 9 read it for five years, seven or six years now.  
 10 Q. Did you help put together that  
 11 underwriting manual?  
 12 A. Yes, I did.  
 13 Q. Was there one when you got there?  
 14 A. No, there wasn't.  
 15 Q. And you don't happen to have a copy  
 16 of that underwriting manual?  
 17 A. No, I don't.  
 18 Q. You also said in connection with  
 19 the implementation of the best practices you  
 20 developed relationships with lending banks.  
 21 What does that entail?  
 22 A. I was looking for lending partners  
 23 who would provide additional capital for the  
 24 loans so we wouldn't have to use Christie's  
 25 balance sheet exclusively.



1 Michael Plummer  
2 Q. Were you able to find lending  
3 banks?

4 A. Yes. There was one that was in  
5 discussions with Christie's, deep in discussions  
6 with Christie's by the time I left.

7 Q. But before you left the  
8 relationship hadn't finalized?

9 A. It had not finalized.

10 Q. So while you were there, to the  
11 extent Christie's was making art loans it was  
12 making it from its art capital?

13 A. Yes.

14 Q. The second thing you said you did  
15 when you got to Christie's and helped form their  
16 financial services department was develop a  
17 series of art funds, correct?

18 A. Yes.

19 Q. How many art funds did you develop?

20 A. We were working with Goldman Sachs  
21 to initially develop four. One similar to  
22 the -- it was in essence an adaptation of what  
23 we were doing at Fernwood. The initial plan was  
24 for four, one in the Impressionist and Modern  
25 sector, one in the Post War sector and

1 Michael Plummer  
2 Contemporary sector, and then one in the Old  
3 Masters sector.

4 Then the fourth which we call the  
5 Brick fund which was in emerging markets such as  
6 Chinese art, Latin American Art, Russian and  
7 Indian Art.

8 Q. So you picked certain sectors of  
9 art that you were going to try to create funds  
10 for, correct?

11 A. Correct.

12 Q. Why did you pick those? For  
13 example, why would you pick Impressionist and  
14 Post War and Old Masters and emerging markets?

15 A. Well, as a selling strategy Goldman  
16 was really going to be the distributor. They  
17 wanted to be able to have an array of products  
18 to sell to their clients that had different risk  
19 return attributes.

20 So, for instance, based on the work  
21 that I had done at Fernwood we were able to  
22 determine that based on that analysis of  
23 volatility and risk and return we were able to  
24 determine, for instance, that Old Masters were  
25 less volatile than Contemporary and more stable,

1 Michael Plummer  
2 but lower return.

3 And that Impressionist and Modern  
4 fell somewhere in between Contemporary and Old  
5 Masters, and that the Brick categories were much  
6 higher risk, but potentially much higher return.  
7 So like any kind of investment product, your  
8 investor will choose which fit his investment  
9 goals.

10 Q. Did you start four art funds?

11 A. Well, what ended up happening was  
12 that that was -- the art fund projects began in  
13 2007 in earnest, perhaps a little bit -- yeah,  
14 in 2007.

15 As you may recall, in July of 2007  
16 the financial credit market started seizing up  
17 in July of 2007.

18 Q. That would have been July of 2008,  
19 and we know that date very well.

20 A. No, no, no. Actually, 2007 is when  
21 the credit market started seizing up. So we  
22 went to -- let's see. Then by 2008, July, of  
23 course then the financial markets overall  
24 started having an impact.

25 My now business partner and I who

1 Michael Plummer  
2 were working at Christie's together on the art  
3 fund went to the management of Christie's to  
4 advise them to pull out of their guarantee  
5 portfolio, because we predicted based on our  
6 financial analysis that the market would crash  
7 in the fall of 2008.

8 Unfortunately, we were disregarded  
9 and Christie's had a very large guarantee  
10 portfolio going into the fall of 2008. It's a  
11 matter of public record that the art market  
12 crashed in the fall of 2008, along with the  
13 seizing up of financial markets.

14 At that time we restructured the  
15 art fund from being four funds to being one  
16 fund, that would be an opportunistic fund based  
17 on the realities of the current market  
18 situation.

19 Q. A very interesting period. Again,  
20 to make sure I get it right. You began with  
21 thoughts of having four art funds?

22 A. Correct.

23 Q. Structured along the lines of your  
24 prior testimony and dealing with four different  
25 genres of art based on the factors you testified

1 Michael Plummer  
2 about earlier. You began that in 2007?  
3 A. Right.  
4 Q. But because of credit markets and  
5 later financial markets; did you actually raise  
6 the funds, the four funds?  
7 A. No. As I was saying, we dropped  
8 the plan for the four funds and we restructured  
9 it to be one fund.  
10 Q. You did that in about 2008?  
11 A. That would have been in January of  
12 2009; December 2008, January 2009, and we went  
13 to market in April -- late March, in March or  
14 early April with the opportunity fund, the  
15 distressed fund if you will, and we went to  
16 Europe and met with leading investment firms in  
17 Europe and, as you would say in the industry,  
18 soft circled about a hundred million for that  
19 fund.  
20 Q. What does soft circled mean?  
21 A. It means you have a verbal  
22 expression of interest for a certain amount of  
23 money without a signed agreement of funding.  
24 Q. So December, January you formed the  
25 one fund?

1 Michael Plummer  
2 A. Right.  
3 Q. Were you still at Christie's?  
4 A. Yes.  
5 Q. You then went to market with that  
6 one fund sometime in March or April of 2009?  
7 A. Correct.  
8 Q. Did you ever actually raise the  
9 funds for that one fund?  
10 A. No, we did not, because Christie's  
11 made a decision a few weeks after that or around  
12 that time that they had sufficient problems in  
13 their core business based on that guarantee  
14 portfolio, that they had to cut back and could  
15 not make the seed investment in the art fund  
16 that was required for the art fund to proceed.  
17 Q. So beyond that, what else did you  
18 do at Christie's Financial Services?  
19 A. The funds and the lending business,  
20 those are my primary responsibilities.  
21 Q. Essentially, how many loans did you  
22 bring to market for Christie's in the art  
23 lending business?  
24 A. Well, there were four loans with  
25 Christie's while I was there. Then in the

1 Michael Plummer  
2 spring of 2009, Christie's withdrew from both  
3 the lending business and the art fund business  
4 because they contracted, as many firms did in  
5 2009, and dropped many of their new initiatives.  
6 Q. Those four loans, do you recall the  
7 size of those four loans?  
8 A. They were in the -- all in the  
9 portfolio was -- you know, I think this is  
10 proprietary information, I'm not sure I can  
11 reveal this, but they were substantial.  
12 Q. When you say "substantial" are you  
13 saying seven figures?  
14 A. More.  
15 Q. So without naming any names, can  
16 you tell me the size of these loans?  
17 A. They were in the hundreds of  
18 millions.  
19 Q. Do you know if these loans were  
20 ever paid back?  
21 A. I heard that they were, yes.  
22 Q. Have we completed your description  
23 of your work at Christie's?  
24 A. I believe so.  
25 Q. So in 2009 did you leave

1 Michael Plummer  
2 Christie's?  
3 A. I did.  
4 Q. When in 2009?  
5 A. Around that time, around  
6 April 2009.  
7 Q. Where did you go then?  
8 A. I then founded Artvest Partners, my  
9 current company.  
10 Q. Since 2009 to the present, have you  
11 been employed by or worked with Artvest  
12 Partners?  
13 A. I am a principal of Artvest  
14 Partners, it is my firm.  
15 Q. Have you worked with anybody else  
16 during that period of time?  
17 A. No.  
18 Q. So your sole employment from 2009  
19 to present has been with Artvest Partners?  
20 A. Correct.  
21 Q. Who else works with you at Artvest  
22 Partners?  
23 A. I have my partner, Jeff Rabin, who  
24 was part of this financial services group at  
25 Christie's with me working on the art fund. He

1 Michael Plummer  
 2 came with me into this venture and we founded it  
 3 as co-principals and partners.  
 4 Q. How many people do you employ?  
 5 A. At the moment we have one, a  
 6 full-time employee.  
 7 Q. What does that person do?  
 8 A. She assists us with our analysis.  
 9 Q. Would you call her a specialist?  
 10 A. No. I mean she actually had worked  
 11 in the specialist department at Sotheby's and  
 12 she has a graduate degree from the NYU program,  
 13 but she's not -- I would say her -- she wears  
 14 many hats, so I'm not sure that I would call her  
 15 a specialist.  
 16 Q. Would you call her an appraiser?  
 17 A. I would not call her an appraiser.  
 18 Q. Is Mr. Rabin an appraiser?  
 19 A. No, he is not an appraiser.  
 20 Q. The full time employee that you  
 21 referred to, does she have a name?  
 22 A. Yes. Anya Bemis, A-n-y-a,  
 23 B-e-m-i-s.  
 24 Q. Has Anya ever been involved in the  
 25 sale of a substantial collection of art like

1 Michael Plummer  
 2 the -- say the art that was appraised by  
 3 Christie's for the DIA?  
 4 A. You know, I don't remember all of  
 5 Anya's experience. She has worked on projects  
 6 for us and she worked in the specialist  
 7 department at Sotheby's years ago, so I would  
 8 imagine in that capacity she did have some  
 9 experience on working on some collections.  
 10 Q. So the collection that was  
 11 appraised by Christie's, you're familiar with  
 12 it?  
 13 A. I'm sorry, are you referring to the  
 14 appraisal of the DIA collection?  
 15 Q. The collection of art at the DIA  
 16 that was appraised by Christie's, are you  
 17 familiar with that?  
 18 A. I am familiar with it.  
 19 Q. Did you handle that appraisal in  
 20 connection with the preparation of your expert  
 21 report?  
 22 A. We reviewed it, yes.  
 23 Q. That would be about 1,700 or so  
 24 works of art that they appraised, correct?  
 25 A. That would be. We did not review

1 Michael Plummer  
 2 all 1,700, but we reviewed a number of the  
 3 objects that we felt were important and  
 4 relevant.  
 5 Q. Have you ever been involved in the  
 6 sale of a collection of art the size that we  
 7 were just referring to, the 1,700 works of art  
 8 at the DIA?  
 9 A. No, I have not been involved in a  
 10 sale of that magnitude.  
 11 Q. Do you know if Anya has?  
 12 A. I do not know.  
 13 Q. Do you know if Jeff Rabin has?  
 14 A. I do not know. He was involved in  
 15 sales in Sotheby's -- in Christie's wine  
 16 department before he came to Artvest and worked  
 17 in financial services, so he may have.  
 18 Q. Sales of wine?  
 19 A. Sales of wine in Christie's wine  
 20 department.  
 21 Q. Is sales of wine the same as sales  
 22 of art?  
 23 A. They require expertise and there  
 24 are a lot of similarities, yes. It involves  
 25 condition, it involves authenticity. There are

1 Michael Plummer  
 2 a lot of very strong, compelling overlaps.  
 3 Q. Is Mr. Rabin in his work at Artvest  
 4 continuing to be involved in the sale of wine?  
 5 A. He is not.  
 6 Q. Can you describe the business of  
 7 Artvest Partners for me?  
 8 A. We advise clients on buying and  
 9 selling art; we set values for them in buying  
 10 and selling art; we from time to time write  
 11 about the art market and the performance of the  
 12 art market; we broker loans for clients and  
 13 assist them in setting the values for those  
 14 loans.  
 15 We negotiate with the auction  
 16 houses on behalf of clients for selling their  
 17 art at auction and setting values for that art.  
 18 We work with members of the trade and broker  
 19 deals and sell property directly on behalf of  
 20 clients.  
 21 Lastly, we also have an ownership  
 22 interest in an art fair, a significant ownership  
 23 interest in an art fair, and we have close  
 24 relationships with members of the trade who are  
 25 our clients and keep abreast of market

1 Michael Plummer

2 conditions through those relationships.

3 Q. So the first thing you mentioned,  
4 and I want to make sure I'm understanding it as  
5 well, is advising the clients in the buying and  
6 self art, correct?

7 A. Um-hum.

8 Q. How would it work? A person would  
9 be an owner of art and then would say well, I'm  
10 considering selling this art, and they would  
11 want to work with someone who knows more about  
12 the market and about the value of the market and  
13 the way it's working, and then they would come  
14 to you as a consultant and an advisor, correct?

15 A. Um-hum.

16 Q. Do you charge by the hour or is  
17 there a commission?

18 A. It depends on the situation. We  
19 may charge a fixed fee, we may charge by the  
20 hour or we may charge a transaction fee, or we  
21 may just charge a combination of both.

22 Q. So you're like a law firm there  
23 then?

24 A. I would never say that I was like a  
25 law firm.

1 Michael Plummer

2 Q. I could understand why. Now, in  
3 terms of the fees, the different types of fees  
4 that you're charging, would there be one type of  
5 client that you would charge by the hour,  
6 another a fixed fee, another something else?

7 A. I would say it's more defined by  
8 the project and the needs of the project; every  
9 project is different.

10 Q. The advice that you give if a  
11 client comes to you with a piece of art that  
12 they're considering selling, do you first try to  
13 determine the value of that art?

14 A. Um-hum. Yes, sorry.

15 Q. Please don't be sorry, I do it all  
16 the time. When I point like that you just give  
17 your verbal answer.

18 The issue of setting that value,  
19 would you do it in the way you described  
20 earlier, by trying to determine what maybe  
21 comparables were and then trying to determine  
22 what the market situation is for that particular  
23 type of art?

24 A. Yes. I would say we do sort of a  
25 macro and a microeconomic review. So you look

1 Michael Plummer

2 at the comparables in the market and then you  
3 look at market conditions overall and whether  
4 it's a good time to sell, a safe time to sell.

5 Whether or not, for instance, it  
6 would be best to sell at auction or to sell  
7 privately, whether or not the work is good  
8 enough to negotiate a guarantee with the auction  
9 houses, that sort of thing.

10 Q. So you could even work with other  
11 auction houses as you just mentioned to have the  
12 art sold, and you might advise somebody that  
13 look, this is the type of art that would best be  
14 auctioned or this is the type of art that would  
15 best be sold in a different way; is that how it  
16 worked?

17 A. Correct.

18 MR. IRWIN: Sorry, did you have a  
19 question about something?

20 THE WITNESS: I wanted to ask if I  
21 could have a bathroom break.

22 MR. SOTO: Absolutely.

23 THE VIDEOGRAPHER: The time is  
24 10:42 a.m., and we're going off the record.  
25 (Short break taken)

1 Michael Plummer

2 THE VIDEOGRAPHER: This begins  
3 media unit number 2, the time is 10:48 a.m., and  
4 we're back on the record.

5 BY MR. SOTO:

6 Q. Mr. Plummer, one of the questions I  
7 meant to ask but forgot to. In connection with  
8 the four loans that you testified about that  
9 were made by Christie's while you were there  
10 overseeing the financial services department,  
11 were any of those loans made to institutions?

12 A. I don't think so.

13 Q. So those were loans to private  
14 individuals?

15 A. Yes.

16 Q. So the second thing you mentioned  
17 in connection with the work you do at Artvest  
18 was to set values?

19 A. Um-hum.

20 Q. Is that any different than what you  
21 just testified about in terms of advising  
22 clients and determining the value of their art?

23 A. No, I don't believe so. I'm not  
24 sure I understand your question though.

25 Q. Let me see if I can break it down.

1 Michael Plummer  
 2 You mentioned that you advised clients in the  
 3 buying and selling of art?  
 4 A. Right.  
 5 Q. The second thing that you listed,  
 6 at least the transcript said, was you also said  
 7 values. I was trying to see, is there a  
 8 distinction between the way you would set values  
 9 and advising a client on the buying and selling  
 10 of art, and what you referred to in your prior  
 11 testimony generally as setting values?  
 12 A. I would say we generally follow the  
 13 same methodology for advising clients on buying  
 14 and selling art and for setting values on art  
 15 when we set values.  
 16 Q. That's what you just testified  
 17 about, correct?  
 18 A. Yeah.  
 19 Q. You said that you write regarding  
 20 the performance of art?  
 21 A. Yes.  
 22 Q. What would that include, would that  
 23 include published articles?  
 24 A. It includes a piece written and  
 25 published in The Art Newspaper. We use to issue

1 Michael Plummer  
 2 periodic market analysis which we sent out to  
 3 our distribution lists which were widely  
 4 acclaimed and much sought after, reviewing each  
 5 season and the outlook for the current season.  
 6 We did a special analysis of the  
 7 Asian market. At one point we did a special  
 8 analysis of the Chinese market, much of which  
 9 became the foundation of the front page article  
 10 of The New York Times by Malcolm Bowley. We  
 11 wrote on the Contemporary market; yeah, things  
 12 like that.  
 13 Q. Malcolm Bowley, is that B-o-w-l-y?  
 14 A. B-o-w-l-e-y.  
 15 Q. Would we be able to find the  
 16 article that appeared in you called it The Art  
 17 Newspaper?  
 18 A. Yeah, it was an editorial in The  
 19 Art Newspaper.  
 20 Q. It would have your name attached to  
 21 it?  
 22 A. Yes. It has Jeff's and my name  
 23 attached to it.  
 24 Q. What was that editorial about?  
 25 A. It was -- let me make sure I get

1 Michael Plummer  
 2 the time right. It was about the state of the  
 3 art market in I think it was 2009 and the  
 4 prospects for its recovery based on the  
 5 financial crisis.  
 6 Q. Since that editorial five years ago  
 7 have you done any other publishing?  
 8 A. Well, as I said, those reports that  
 9 I was talking about were done after that.  
 10 Q. The periodic reports?  
 11 A. Yeah.  
 12 Q. The periodic market analysis that  
 13 you did, was that published publicly or is it  
 14 something privately?  
 15 A. It was something that we at Artvest  
 16 published and distributed to our clients.  
 17 Q. How often did you publish it?  
 18 A. We published them about every six  
 19 months for an 18-month period; an 18-month to  
 20 2-year period.  
 21 Q. You stopped publishing it now?  
 22 A. Yes.  
 23 Q. Why did you stop?  
 24 A. We stopped because it was an  
 25 expensive undertaking. We had many fans who

1 Michael Plummer  
 2 sought it out, but we found it to be -- we had  
 3 also made our mark in the industry, we were now  
 4 being sought out by clients and reporters to  
 5 express our opinion and we felt we didn't need  
 6 to continue making an investment; and it was a  
 7 costly endeavor.  
 8 Q. The periodic analysis would include  
 9 your view of the values, again, of different  
 10 genres of art --  
 11 A. Yes.  
 12 MR. IRWIN: You should let him  
 13 finish his question.  
 14 Q. -- and the volatility of different  
 15 values of art?  
 16 A. Yes.  
 17 Q. As well as the salability of  
 18 different genres of art, correct?  
 19 A. Yes. We would even get into  
 20 analyzing certain artists like Picasso and the  
 21 growth in value of certain works of art that  
 22 were coming back up at auction, and some  
 23 in-depth analysis of individual works.  
 24 Q. Did you utilize any of that  
 25 information in arriving at any of the opinions

1 Michael Plummer  
2 that you state in your expert report that you  
3 are giving here in connection with the Chapter 9  
4 proceedings of Detroit?

5 MR. IRWIN: It's a little vague,  
6 you can answer the question.

7 A. No. I would say though that some  
8 of the opinions and things that we expressed  
9 then would be consistent with things that we  
10 have expressed in this report, that certain  
11 conditions perhaps remained the same or haven't  
12 changed.

13 Q. If I wanted to determine how  
14 accurate your analysis was in connection with  
15 these periodic market analyses that you  
16 published, where can I obtain copies of them?

17 A. I have copies.

18 (\*r) MR. SOTO: Geoff, I would  
19 appreciate it if we can get copies of those so  
20 that I can look at them in connection with our  
21 analysis of this expert.

22 MR. IRWIN: Send me a note tallying  
23 all this stuff up at the end and we'll talk to  
24 you then.

25 Q. So the next thing that is listed

1 Michael Plummer

2 A. It means we would establish the  
3 value of the art and what the client was likely  
4 to get as a loan for that art. Then sometimes  
5 even work with the lender in agreeing to the  
6 values the lender was going to put on the art.

7 Q. The next thing you mentioned was  
8 you assisted clients in connection with their  
9 work with auction houses, correct?

10 A. Yes.

11 Q. What would that entail?

12 A. That would entail arranging the  
13 deal with the auction house in terms of what the  
14 financial terms were, what the marketing terms  
15 were, and what the value that the auction house  
16 was putting on the property.

17 Q. You would help set the value?

18 A. We would be engaged in the  
19 discussion of the value with the auction house,  
20 which would be usually a three-party discussion,  
21 the auction house, the client and us.

22 Q. In connection with -- let me finish  
23 the list. The next thing you said is you sold  
24 property directly for clients?

25 A. Yes.

1 Michael Plummer  
2 here is that you brokered loans?

3 A. Yes.

4 Q. What does that mean?

5 A. It means that clients come to us  
6 looking for art loans and we would take them to  
7 a bank or a lending institution to get the loan,  
8 and we would match the right lender to the needs  
9 of the borrower and the borrower's  
10 qualifications.

11 Q. In connection with your brokering  
12 of loans, did you ever broker any loans for an  
13 institution?

14 A. You mean on behalf of an  
15 institution as a client?

16 Q. Yes, on behalf of an institution.

17 A. No.

18 Q. So for the most part, when you were  
19 brokering loans it's on behalf of individual  
20 clients?

21 A. Yes.

22 Q. The next thing you listed was set  
23 value for loans?

24 A. Yes.

25 Q. What did you mean by that?

1 Michael Plummer

2 Q. What does that mean?

3 A. Well, I would say directly we would  
4 sell property, not so much that we would sell it  
5 ourselves but we would sell -- instead of  
6 selling through auction we would sell it through  
7 a dealer.

8 Q. So that would be a situation where  
9 a client came to you, you felt it was best not  
10 to go through an auction with this particular  
11 client, but to go through a dealer directly?

12 A. Yes.

13 Q. You mentioned that Artvest has an  
14 ownership interest in an art fair, correct?

15 A. Correct.

16 Q. What is that art fair?

17 A. It's called Spring Masters New  
18 York.

19 Q. Where is it?

20 A. It is held in May at the Park  
21 Avenue Armory.

22 Q. In connection with your ownership  
23 of that interest in the art fair, do you perform  
24 any appraisal services of any type in connection  
25 with that work?

1 Michael Plummer  
2 A. No, in that capacity we do none.  
3 We do have nearly weekly conversations with  
4 dealers who are our clients about the state of  
5 the art market and the state of their  
6 businesses, so it's an important resource for  
7 information.

8 Q. So having an interest in the art  
9 fair enables you to maintain contact with a  
10 number of dealers, and a number of people who  
11 will give you information that they have about  
12 the market and about various genres of art,  
13 correct?

14 A. Or confirm information that we  
15 already have.

16 Q. So it helps you to keep up to  
17 breast?

18 A. Exactly.

19 Q. That's what you meant when you said  
20 that, to keep up to breast with market  
21 conditions?

22 A. Right.

23 Q. In connection with the work that  
24 you have described of Artvest for example, let's  
25 just take the first one, advising clients.

1 Michael Plummer  
2 Does Artvest ever hire or retain  
3 the services of an appraiser in connection with  
4 its work with its clients when it's advising  
5 clients regarding buying and selling?

6 A. We hired appraisers to work on the  
7 DIA project.

8 Q. Is that the only project that you  
9 can recall that you hired appraisers for?

10 A. I believe so.

11 Q. Who were you retained by in  
12 connection with your work on the DIA project?

13 A. By Cravath and Jones Day.

14 Q. Do you know who they represented in  
15 connection with that project?

16 A. Yes.

17 Q. Who is that?

18 A. Jones Day for the City and Cravath  
19 for the DIA.

20 Q. So ultimately your work was for the  
21 City, and you were hired by Mr. Irwin's firm;  
22 and also by the DIA you were hired by  
23 Mr. Levin's firm?

24 A. Correct.

25 Q. In connection with your work under

1 Michael Plummer  
2 Artvest, or as co-owner of Artvest, do you ever  
3 advise clients on alternate forms of monetizing  
4 art separate and apart from sales?

5 A. We have advised clients on art  
6 loans, which is a type of liquidation other than  
7 selling. We have never been hired to, but we  
8 were engaged -- we were approached about setting  
9 up a system for art loans for a fee, in terms of  
10 lending works of art, but we found that to be  
11 a -- not a viable option to pursue.

12 Q. So I understand it. The  
13 distinction you're making between art loans that  
14 you've been advised on, that you testified about  
15 already, and art loans for a fee; what's the  
16 difference?

17 A. Well, I mean lending a work of art  
18 to someone to hang on their wall; renting a work  
19 of art is what I mean.

20 Q. What has your experience been in  
21 connection with, as you put it, renting a work  
22 of art?

23 A. As I said, we've been approached  
24 more than once about this and we have declined  
25 to pursue that because we feel it's not a viable

1 Michael Plummer  
2 line of business or option.

3 Q. It's not viable because it's  
4 difficult to get a fee for it?

5 A. There's really no audience for it.

6 Q. The times that you were approached  
7 for renting a work of art, was that by  
8 individuals?

9 A. It was by individuals who had  
10 collections, who were looking to do it as a tax  
11 strategy.

12 Q. Other than those two forms of  
13 monetization or alternatives to sale, has  
14 Artvest worked with any other alternatives?

15 A. Not that I can recall.

16 Q. So you spent 16 years at Sotheby's,  
17 correct?

18 A. Correct.

19 Q. And two years at Christie's,  
20 correct?

21 A. Correct.

22 Q. During that time did you personally  
23 conduct any appraisals?

24 A. No.

25 Q. During that time did you obtain any

1 Michael Plummer  
 2 training in conducting an appraisal?  
 3 A. No.  
 4 Q. During that time did you  
 5 participate in auctioning artworks?  
 6 A. How do you mean that question?  
 7 Q. Actually in its broadest sense.  
 8 Did you participate in any way or were you  
 9 involved in any way of the auctioning of  
 10 artworks?  
 11 A. Well, as a business manager I was  
 12 involved in the department's creation of a sale  
 13 and managing that sale and putting that sale on;  
 14 so yes, if you mean it in the broadest sense.  
 15 Q. That would be in connection with  
 16 your work in marketing, correct, that you headed  
 17 the marketing department for Sotheby's and you  
 18 would have to know something about the auction  
 19 that was going to be held in order to market it,  
 20 correct?  
 21 A. Well, that too; but I was referring  
 22 to my experience before that as a business  
 23 manager where I actually sat in the expert  
 24 department and worked with them as they were  
 25 putting the sale together for auction.

1 Michael Plummer  
 2 Q. So that would have been your  
 3 initial work at Sotheby's, correct?  
 4 A. That would have been my second job  
 5 at Sotheby's.  
 6 Q. As the business manager, I see.  
 7 What was your first job at Sotheby's?  
 8 A. Account manager.  
 9 Q. Account manager, okay. In  
 10 connection with your work as a business  
 11 manager -- well, I think we got that on  
 12 testimony already so I won't go over it again.  
 13 Other than that work that you just  
 14 described, your work as a business manager, and  
 15 also the marketing work that you described; was  
 16 there any other work that you did, again in its  
 17 broadest sense, that would put you in  
 18 participation with the auctioning of artworks?  
 19 A. The business manager job, yes, and  
 20 the marketing position; and then I left  
 21 Sotheby's after that. Then at Christie's I was  
 22 not involved in the auctioning of works of art.  
 23 Q. The experience you did have at  
 24 Sotheby's that you just referred to, did it ever  
 25 involve the auctioning of an entire collection

1 Michael Plummer  
 2 of a museum, for example?  
 3 A. No, I don't believe that such an  
 4 event has ever happened.  
 5 Q. Did it ever involve the auctioning  
 6 of a portion of a collection say the size of the  
 7 1,700 works of art that Christie's appraised for  
 8 the DIA?  
 9 A. There were various large  
 10 collections, I can't remember now what they  
 11 were, but some very large ones that came  
 12 through. For example, I was involved in the  
 13 Jackie Onassis sale.  
 14 Q. How many works of art did that  
 15 involve?  
 16 A. I can't remember, but it was a  
 17 large collection and I wrote the marketing plan  
 18 for that and also designed the catalog cover for  
 19 it.  
 20 Q. Have you ever prior to this  
 21 occasion where you have been retained as an  
 22 expert, have you ever been retained as an expert  
 23 witness in any other case?  
 24 A. No.  
 25 Q. Other than the expert report that

1 Michael Plummer  
 2 you prepared in connection with this Chapter 9  
 3 proceeding that we're here on today, have you  
 4 ever prepared an expert report for any other  
 5 case?  
 6 A. No.  
 7 Q. Other than the testimony you're  
 8 giving here today, have you ever given testimony  
 9 or proposed to give testimony as an expert in  
 10 any other case?  
 11 A. No. I was engaged about the time  
 12 of this engagement to be an expert witness, but  
 13 that has not taken place yet.  
 14 Q. That's in another litigation?  
 15 A. Another litigation unrelated to  
 16 this.  
 17 Q. What is the subject matter of that  
 18 case?  
 19 A. It's a tax-related estate issue.  
 20 Q. And you haven't prepared a report  
 21 in that case yet?  
 22 A. Nothing has happened yet.  
 23 Q. In connection with this matter have  
 24 you been told that you will be requested to act  
 25 as a witness in connection with the planned



1 Michael Plummer  
 2 confirmation trial that's currently set to take  
 3 place in Detroit, I believe it's starting now  
 4 around August 21st?  
 5 A. Yes.  
 6 Q. We'll go through that in a  
 7 different fashion to see if we can get it  
 8 quicker.  
 9 Who have you spoken to regarding  
 10 your potential testimony in this matter, this  
 11 Chapter 9 proceeding?  
 12 A. What do you mean by spoken to about  
 13 my potential testimony?  
 14 Q. Who have you spoken to about the  
 15 fact that you're acting as an expert, or hoping  
 16 to act as an expert, and that you might be  
 17 testifying in this matter?  
 18 A. Well, I guess numerous people  
 19 because it's a matter of public record now and  
 20 I've been asked about it, but I don't comment on  
 21 it.  
 22 Q. So the numerous people who have  
 23 approached you, who have you spoken to?  
 24 A. Well, they have asked me questions  
 25 and I don't talk about it, I just refer them to

1 Michael Plummer  
 2 my report.  
 3 Q. You're talking about like  
 4 journalists or somebody who are calling you up  
 5 and asking you about --  
 6 A. Or friends, family, that sort of  
 7 thing.  
 8 Q. So you've certainly spoken with  
 9 Mr. Irwin, correct?  
 10 A. Yes.  
 11 Q. And with counsel in his office?  
 12 A. Yes.  
 13 Q. With Mr. Levin and maybe his  
 14 colleagues?  
 15 A. Correct.  
 16 Q. Have you spoken with Mr. O'Reilly?  
 17 A. Yes.  
 18 Q. Have you spoken with anyone at the  
 19 DIA?  
 20 A. No.  
 21 Q. Other than the counsel that I've  
 22 already mentioned, the attorneys that I've  
 23 already mentioned; have you spoken with anybody  
 24 else?  
 25 A. No.

1 Michael Plummer  
 2 Q. Can you tell me when you were  
 3 retained as an expert witness?  
 4 A. It was around May 20th something.  
 5 Q. Of 2014?  
 6 A. 2014, yeah.  
 7 Q. Who initially contacted you  
 8 regarding your retention as an expert?  
 9 A. Rich Levin.  
 10 Q. Have you had previous dealings with  
 11 Mr. Levin?  
 12 A. Well, we had spoken about this at  
 13 some period before that as a possibility for it,  
 14 but nothing had materialized until May.  
 15 Q. What was the nature of your  
 16 assignment as explained to you by either the  
 17 City or the DIA?  
 18 A. It's listed in my report, there are  
 19 four main bullets. I wouldn't want to do it  
 20 from memory since it's actually in the report.  
 21 Q. You can actually have a copy of  
 22 that report. I think it's actually going to be  
 23 our next exhibit so why don't we go ahead and  
 24 mark it. We give nothing but open book exams  
 25 here.

1 Michael Plummer  
 2 A. That's good. While we're doing  
 3 that may I have another quick break?  
 4 Q. Absolutely.  
 5 THE VIDEOGRAPHER: The time is  
 6 11:14 a.m., and we're going off the record.  
 7 (Off the record)  
 8 (Plummer Exhibit 2, Expert Witness  
 9 Report of Michael Plummer, marked for  
 10 identification.)  
 11 THE VIDEOGRAPHER: The time is  
 12 11:26 a.m., and we're back on the record.  
 13 BY MR. SOTO:  
 14 Q. Mr. Plummer, I have handed you what  
 15 we have marked as Exhibit 2 to this deposition.  
 16 A. Yes.  
 17 Q. Are you familiar with that?  
 18 A. Yes, I am.  
 19 Q. Take a moment to review it. I will  
 20 ask you is this the report that you have  
 21 submitted as an expert witness in the City of  
 22 Detroit Chapter 9 proceeding?  
 23 A. Yes, it is.  
 24 Q. Now, we were just about to ask  
 25 about it and I told you it would be open book.

1 Michael Plummer  
2 You mentioned -- when I asked you what the  
3 nature of your assignment was as it was  
4 explained to you, you were referring to  
5 something in your report, what was that?

6 A. That was the list on page 4, number  
7 2, that counsel had asked me to form an opinion  
8 with respect to the following:

9 "The indicative value of the works  
10 in the DIA collection. The feasibility and  
11 likely effects on the market and value  
12 realization of a sale of the DIA collection  
13 under a variety of market and sale conditions.  
14 Creditor-proposed sales of the DIA's collection,  
15 including analysis of certain third-party  
16 indications of interest.

17 "Monetization alternatives  
18 described in Christie's report to the City of  
19 Detroit, and infirmities in any rebuttal expert  
20 reports, which I will address in any  
21 supplemental report as necessary."

22 Q. What is your compensation  
23 arrangement for providing testimony of those  
24 topics?

25 A. It was \$112,500 for the report and

1 Michael Plummer  
2 6,000 per day for testimony and deposition, or  
3 \$3,500 for a half day.

4 Q. We're not going to have to worry  
5 about the half day, so we'll just keep going.  
6 I'll try to get it done today, I think I'm under  
7 a 17-hour limit again.

8 Do you know of anyone else from  
9 Artvest who's going to be asked to testify?

10 A. No.

11 Q. Let me ask you then to look at page  
12 48 of Exhibit 2. It starts at the top of the  
13 page with "Conclusion," do you see that?

14 A. Um-hum.

15 Q. So we're on the same page. Is that  
16 your signature at the bottom of that page?

17 A. It is.

18 Q. Can you tell me how long it took  
19 you to put together this expert report. You  
20 said you were retained in May, when did you  
21 start working on the report?

22 A. We probably started doing  
23 preparatory work in I would say the middle of  
24 May.

25 Q. From the middle of May through

1 Michael Plummer  
2 July 8th when this report is dated, is that the  
3 amount of time it took?

4 A. Yes.

5 Q. You completed it just at the nick  
6 of time and handed it in on July 8th?

7 A. Yeah, we handed it in on July 8th  
8 and we worked pretty much around the clock to  
9 get it done.

10 Q. Right up to the deadline?

11 A. Yeah.

12 Q. So on page 48, paragraph 79 A, you  
13 state, I'll read it for you slowly:

14 "The indicative value of the works  
15 in the DIA Collection at a gross valuation,  
16 without any deduction for the value of the works  
17 that are ultimately determined not to be subject  
18 to sale, whether for legal or other reasons, and  
19 before the application of discount factors  
20 related to general market conditions or issues  
21 specific to the DIA collection as a mid estimate  
22 of \$3,684,466,069 and a low estimate of  
23 \$2,760,978,432."

24 Did I read that correctly?

25 A. Yes.

1 Michael Plummer  
2 Q. What was the high estimate?  
3 A. The high estimate is in the report.  
4 The high estimate was \$4,607,953,704 on page 19  
5 of the report.

6 Q. Page 19?

7 A. Page 19.

8 Q. Let me turn there and catch up to  
9 you. So under Table 2, under "Total DIA  
10 Collection" at the bottom, the column high  
11 estimate, the final number going down the column  
12 is \$4,607,953,704. That's the highest of it,  
13 correct?

14 A. Correct.

15 Q. Have you done all the required work  
16 that you think was required to reach the  
17 opinions you reached in this case?

18 A. Yes.

19 Q. Or, asked another way, you have no  
20 more work you think you need to do in order to  
21 support these opinions, correct?

22 A. Correct.

23 Q. Is there any work that you wanted  
24 to do, but you were unable to do before  
25 rendering these opinions?

<p style="text-align: right;">Page 101</p> <p>1 Michael Plummer</p> <p>2 A. No.</p> <p>3 Q. On page 48, in paragraph 79 B, you</p> <p>4 state:</p> <p>5 "The feasibility and likely effects</p> <p>6 of and on the market and value realization of a</p> <p>7 sale of the DIA collection under a variety of</p> <p>8 market and sale conditions: After the</p> <p>9 application of various discount factors related</p> <p>10 to these conditions, the range of value the DIA</p> <p>11 collection will sell for, without any deduction</p> <p>12 for the value of the works that are ultimately</p> <p>13 determined not to be subject to sale, will be</p> <p>14 between \$1.1 billion for the present value of an</p> <p>15 orderly liquidation after allowing" is that of?</p> <p>16 A. Of.</p> <p>17 Q. "Of an orderly liquidation after</p> <p>18 allowing for the likely delay of litigation to</p> <p>19 \$1.8 billion in the highest value scenario, with</p> <p>20 no litigation and an orderly selling plan." Do</p> <p>21 you see that?</p> <p>22 A. Yes.</p> <p>23 Q. Have you done all the work required</p> <p>24 to reach this opinion in this case?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 103</p> <p>1 Michael Plummer</p> <p>2 A. I don't believe so.</p> <p>3 Q. The same page, 48 this time,</p> <p>4 paragraph 79 D. Do you see it there?</p> <p>5 A. Yes.</p> <p>6 Q. You state, and I'm quoting you:</p> <p>7 "Creditor-proposed sales of the</p> <p>8 DIA's collection, including analysis of certain</p> <p>9 third-party indications of interest: They are</p> <p>10 either not plausible or not likely to net the</p> <p>11 dollar values quoted."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Have you done all the work</p> <p>15 required, at least that you think is required,</p> <p>16 to reach this opinion in this case?</p> <p>17 A. Yes.</p> <p>18 Q. Is there any other work that</p> <p>19 remains undone or that you think is necessary to</p> <p>20 support that opinion?</p> <p>21 A. No.</p> <p>22 Q. Let's begin by discussing the</p> <p>23 appraisal process that you went through in order</p> <p>24 to arrive at these opinions.</p> <p>25 When did your team begin appraising</p>
<p style="text-align: right;">Page 102</p> <p>1 Michael Plummer</p> <p>2 Q. Is there any work that remains</p> <p>3 undone or that you think is necessary to support</p> <p>4 that opinion?</p> <p>5 A. No.</p> <p>6 Q. On page 48, this time paragraph 79</p> <p>7 C, we'll take a look at that. You state, and I</p> <p>8 quote:</p> <p>9 "My review of the practicality and</p> <p>10 reasonableness of the monetization alternatives</p> <p>11 described in Christie's preliminary report to</p> <p>12 the City of Detroit: They do not have a</p> <p>13 reasonable expectation of either raising</p> <p>14 meaningful money or exceeding even the \$100</p> <p>15 million the DIA has already committed as its</p> <p>16 contribution to the Grand Bargain." Do you see</p> <p>17 that?</p> <p>18 A. Yes.</p> <p>19 Q. Again, have you done all the work</p> <p>20 required, as far as you are concerned, to reach</p> <p>21 this opinion in this case?</p> <p>22 A. Yes.</p> <p>23 Q. Is there any other work that you</p> <p>24 think you would need to do in order to support</p> <p>25 that opinion?</p>	<p style="text-align: right;">Page 104</p> <p>1 Michael Plummer</p> <p>2 the art at the DIA that is the subject of this</p> <p>3 expert opinion?</p> <p>4 A. We began pulling comparables in</p> <p>5 May, so the process began in May.</p> <p>6 Q. How long did it take to complete</p> <p>7 the appraisal?</p> <p>8 A. Up until the week before, the first</p> <p>9 week -- up through the first week of July.</p> <p>10 Wait. Excuse me, you referred to</p> <p>11 it as an appraisal, we referred to it as a</p> <p>12 valuation.</p> <p>13 Q. Let's go back and ask the first</p> <p>14 question again that I asked when you began</p> <p>15 appraising the art; that would still be in May?</p> <p>16 A. We began evaluating the collection</p> <p>17 in May.</p> <p>18 Q. You don't refer to it as an</p> <p>19 appraisal?</p> <p>20 A. No.</p> <p>21 Q. Why not?</p> <p>22 A. Because we consider it an</p> <p>23 evaluation of the value of the collection.</p> <p>24 Q. How do you distinguish that from an</p> <p>25 appraisal of the value of the collection?</p>

26 (Pages 101 to 104)

<p style="text-align: right;">Page 105</p> <p>1 Michael Plummer</p> <p>2 A. Because we consider factors that</p> <p>3 are typically not considered in an appraisal,</p> <p>4 such as market conditions, which we think are</p> <p>5 critical to setting a value for this collection.</p> <p>6 Q. Will you tell the Court what</p> <p>7 factors you are considering in an evaluation</p> <p>8 that you believe are not considered in an</p> <p>9 appraisal?</p> <p>10 A. We are considering the impact of</p> <p>11 unsold rates. We are considering the</p> <p>12 overheatedness of the Contemporary market. We</p> <p>13 are considering the malaise, for lack of a</p> <p>14 better word, in the American Art sector. We are</p> <p>15 considering the issues in the Old Masters sector</p> <p>16 which is not a malaise, it's a cooler sector.</p> <p>17 We are considering the differences</p> <p>18 between the activity in the Impressionist and</p> <p>19 Modern sector versus the Contemporary sector.</p> <p>20 We're also considering the impact of litigation</p> <p>21 and the delays based on other examples of that</p> <p>22 litigation in terms of liquidating the property,</p> <p>23 because it can't be sold with clear title.</p> <p>24 We're considering the impact of taint which we</p> <p>25 consider to be significant, most especially in</p>	<p style="text-align: right;">Page 107</p> <p>1 Michael Plummer</p> <p>2 Q. What are you referring to there?</p> <p>3 A. That market has become very hot and</p> <p>4 is showing -- a number of people active in the</p> <p>5 market such as myself are beginning to have</p> <p>6 concerns about the stability of this market when</p> <p>7 it is so heated as it is, and given its</p> <p>8 volatility and the fact that it has crashed in</p> <p>9 the past, as recently as 2008.</p> <p>10 Q. So in connection with your concern</p> <p>11 or application of factors of unsold rates, did</p> <p>12 you have a particular source that you were</p> <p>13 referring to that you utilized in determining</p> <p>14 how that unsold rate factor would apply to the</p> <p>15 collection that you analyzed at the DIA?</p> <p>16 A. We used publicly available</p> <p>17 information based on Sotheby's and Christie's</p> <p>18 sales, on their unsold rates.</p> <p>19 Q. Anything else?</p> <p>20 A. No.</p> <p>21 Q. In connection with the</p> <p>22 overheatedness, which you particularly mentioned</p> <p>23 the Contemporary Art sector?</p> <p>24 A. Right.</p> <p>25 Q. What did you rely on in coming to</p>
<p style="text-align: right;">Page 106</p> <p>1 Michael Plummer</p> <p>2 the American sector.</p> <p>3 We think all of these are critical</p> <p>4 considerations in establishing a value for the</p> <p>5 liquidation, if there were to be a liquidation,</p> <p>6 of the DIA collection.</p> <p>7 Q. So these are all factors that you</p> <p>8 believe you considered that would not be</p> <p>9 considered in an appraisal of the art, correct?</p> <p>10 A. Correct.</p> <p>11 Q. So unsold rates, what does that</p> <p>12 mean?</p> <p>13 A. Unsold rate was what I was</p> <p>14 referring to earlier as BI property, which is</p> <p>15 property that does not sell. In certain of the</p> <p>16 sectors where, and particularly Old Masters</p> <p>17 where the DIA has a very high concentration of</p> <p>18 property, our subject are very high BI rates,</p> <p>19 unsold rates.</p> <p>20 Q. That's what you were referring to</p> <p>21 earlier in terms of unsold rates?</p> <p>22 A. Yes.</p> <p>23 Q. The next factor you mentioned was</p> <p>24 overheatedness in contemporary art?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 108</p> <p>1 Michael Plummer</p> <p>2 those conclusions and making that analysis?</p> <p>3 A. Our own internal analysis over the</p> <p>4 last several years of --</p> <p>5 MR. O'REILLY: Why don't we break</p> <p>6 for a moment?</p> <p>7 MR. SOTO: I don't need to.</p> <p>8 They're going to finish that and they will be</p> <p>9 out of here in 5 minutes.</p> <p>10 MR. O'REILLY: That's fine, you're</p> <p>11 going to have a lot of noise on the video. If</p> <p>12 you're okay with that.</p> <p>13 BY MR. SOTO:</p> <p>14 Q. It's up to you, are you being</p> <p>15 distracted or are you okay?</p> <p>16 A. Okay.</p> <p>17 Q. Let's go.</p> <p>18 A. We used our own internal data</p> <p>19 generally comparing and our own watching of the</p> <p>20 sales which we do, sales results on a regular</p> <p>21 basis, and in particular comparing how sales are</p> <p>22 doing, auction sales are doing relative to their</p> <p>23 estimates, and the sell-through rates or unsold</p> <p>24 rates in that area as well.</p> <p>25 As well as follow various press</p>

27 (Pages 105 to 108)

<p style="text-align: right;">Page 109</p> <p>1 Michael Plummer</p> <p>2 accounts and anecdotal accounts that we have and</p> <p>3 discussions with dealers that represent the</p> <p>4 trade and their art specialties.</p> <p>5 Q. The overheatedness unsold rates,</p> <p>6 would those be the same kinds of publicly</p> <p>7 available unsold information that you referred</p> <p>8 to earlier?</p> <p>9 A. Yes.</p> <p>10 Q. So it would be the publicly</p> <p>11 available unsold information listed on the</p> <p>12 Contemporary Art sector, correct?</p> <p>13 A. Yes.</p> <p>14 Q. What about the malaise in American</p> <p>15 Art, what are you referring to there?</p> <p>16 A. I'm referring to the fact that the</p> <p>17 American Art sector has not recovered from the</p> <p>18 2008 crash, it's at its highs in the spring of</p> <p>19 2008. Let me add also that in the American Art</p> <p>20 sector, as well as in the other sectors, we look</p> <p>21 at art indices as well.</p> <p>22 Q. Anything else?</p> <p>23 A. At the moment I can't think of</p> <p>24 anything else.</p> <p>25 MR. SOTO: They're going to bring</p>	<p style="text-align: right;">Page 111</p> <p>1 Michael Plummer</p> <p>2 Q. What did you mean by that?</p> <p>3 A. By issues I meant that there is --</p> <p>4 that that market is losing collectors, that it</p> <p>5 has a high unsold rate and it has a problem with</p> <p>6 supply.</p> <p>7 Q. What is that problem?</p> <p>8 A. It's had an uneven supply of good</p> <p>9 property over the years, and there is a lot of</p> <p>10 mediocre material in the market. That, in</p> <p>11 addition to the fact that collectors are</p> <p>12 defecting to -- and this affects the American</p> <p>13 market as well and to some extent the</p> <p>14 Impressionist and Modern market, collectors are</p> <p>15 defecting en mass to the Contemporary sectors.</p> <p>16 Or, in other words, young</p> <p>17 collectors are going into Contemporary. Very</p> <p>18 few young collectors are moving into these other</p> <p>19 sectors, so they're dying out.</p> <p>20 Q. So when you say "uneven supply"</p> <p>21 that would mean not enough or too many?</p> <p>22 A. It means that it's not enough</p> <p>23 quality. But even if you were to have good</p> <p>24 quality you still have the problem of not enough</p> <p>25 collectors, so it's a two-sided problem.</p>
<p style="text-align: right;">Page 110</p> <p>1 Michael Plummer</p> <p>2 the food in, let's take a break.</p> <p>3 THE VIDEOGRAPHER: The time is</p> <p>4 11:45 a.m., we're going off the record.</p> <p>5 (Off the record)</p> <p>6 THE VIDEOGRAPHER: The time is</p> <p>7 11:52 a.m., and we're back on the record.</p> <p>8 BY MR. SOTO:</p> <p>9 Q. Thank you for your patience here.</p> <p>10 I think you had discussed the third factor that</p> <p>11 you mentioned that you took into account which</p> <p>12 was the malaise and American Art, correct?</p> <p>13 A. Correct.</p> <p>14 Q. Anything more on that issue?</p> <p>15 A. Yes, there's one more thing is that</p> <p>16 in all of these sectors we have business</p> <p>17 dealings and clients and firsthand experience of</p> <p>18 sales, sales that are easy, sales that are hard,</p> <p>19 so that's also important in our reading of the</p> <p>20 market.</p> <p>21 Q. The next thing you mentioned,</p> <p>22 factor 4, was the issues in the Old Masters</p> <p>23 sector which you mentioned the DIA has a large</p> <p>24 collection of, is that correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 112</p> <p>1 Michael Plummer</p> <p>2 Q. So that even if the work of the Old</p> <p>3 Masters that is part of the collection at the</p> <p>4 DIA is good quality, your point is --</p> <p>5 A. There aren't enough collectors out</p> <p>6 there to absorb that volume of property.</p> <p>7 Q. The next one you mentioned was</p> <p>8 different Impressionist -- the differences</p> <p>9 between the Impressionist and Modern sector</p> <p>10 versus the Contemporary sector?</p> <p>11 A. Correct.</p> <p>12 Q. What did you mean by that?</p> <p>13 A. I have some examples in my report.</p> <p>14 The Impressionist sector, there have been good</p> <p>15 quality paintings that have come on the market</p> <p>16 that have disappointed in their results.</p> <p>17 Whereas, if the same caliber of</p> <p>18 work had come on the market in the Post War --</p> <p>19 or when the same caliber of art has come on the</p> <p>20 market in the Post War sector it does far better</p> <p>21 and it sometimes even exceeds the estimates.</p> <p>22 Whereas, the others tend to fall short of the</p> <p>23 estimates.</p> <p>24 Q. When you say Contemporary you also</p> <p>25 used the phrase Post War, do you mean the same</p>

28 (Pages 109 to 112)

<p style="text-align: right;">Page 113</p> <p>1 Michael Plummer 2 in both? 3 A. They are often used 4 interchangeably. Sotheby's uses only the term 5 Contemporary, Christie's uses Post War and 6 Contemporary. I've fallen into the habit of 7 referring to them somewhat interchangeably 8 because I've worked at both houses. 9 Q. In connection with your analysis of 10 the malaise of the American Art that you 11 referred to earlier, I believe you mentioned all 12 of the factors that you relied on, but you 13 didn't with respect to issues on Old Masters. 14 Is there anything that you relied 15 on for your analysis? 16 A. The same for all the others. I 17 relied on the same factors for all of the 18 sectors. 19 Q. Those would be your knowledge 20 through conversations with people in the art 21 industry, correct? 22 A. Right. 23 Q. Would they also be your knowledge 24 of comparable sales? 25 A. Yes.</p>	<p style="text-align: right;">Page 115</p> <p>1 Michael Plummer 2 A. Well, this is an issue we've gone 3 on record with the auction houses with in the 4 past. Beginning in the downturn of the '90s, 5 Sotheby's took a policy and Christie's soon 6 followed, that because the sales results were 7 looking anemic they decided to start posting the 8 sales results with the buyer's premium and 9 comparing them to the estimates, low and high 10 estimates for the sale which don't include 11 buyer's premium. So in essence they're goosing 12 up their results. 13 So when we do our analysis we go 14 back and manually extract the buyer's premium 15 when making comparisons against low and high 16 estimates so that we gather more accurate 17 results. 18 There are many sales that in the 19 press look like they've come in between the low 20 and high estimates, when in reality they will 21 have fallen short of the low estimate because 22 that buyer's premium is creating this 23 distortion. 24 Q. What is the buyer's premium? I had 25 about an hour conversation about this in our</p>
<p style="text-align: right;">Page 114</p> <p>1 Michael Plummer 2 Q. Would it also be your knowledge of 3 more recent sales that you get through private 4 knowledge? 5 A. Yes. Indices, auctions performance 6 against their estimates; all of the things that 7 I've listed previously for all the other 8 sectors. 9 Q. The indices and the auction 10 performance, those are publicly available 11 information, correct? 12 A. Well, the indices you have to pay 13 to use, but if you paid money you can use them. 14 So I guess in essence they are the same. 15 Q. The same with respect to the public 16 information regarding the results of auctions? 17 A. Yes. However, we compile a lot of 18 information manually and have to because there 19 is a manner in which the auction houses report 20 their information which distorts it. So we 21 often compile and manually arrange it ourselves 22 so that we can decipher it more accurately than 23 how the auction houses report it. 24 Q. How do the auction houses report it 25 that distorts it?</p>	<p style="text-align: right;">Page 116</p> <p>1 Michael Plummer 2 last deposition and I still don't understand it. 3 A. The buyer's premium, I will try to 4 make it straightforward and simple. The buyer's 5 premium is a commission added on by the auction 6 house, and it's a tiered commission, and they've 7 now muddled with it so much that I don't have it 8 as part of my memory anymore. 9 Up to X number it's say 20 or 10 25 percent; up to X number it's the next 11 increment, it drops down to the next thing like 12 15 percent or something, and then after that 13 over 2 million or some such number it drops down 14 to I believe 12 percent. 15 So it can make a differential 16 depending on the value of the works of somewhere 17 around an average of 13 percent to up as high as 18 25 percent in the return. 19 Q. In a real-life hypothetical example 20 using round numbers, let's assume there was a 21 piece of art or even a collection of art that 22 was valued at \$100 million and it was sold at 23 auction, and assuming there was some tiered 24 commission; there would be commissions as you 25 had described for different tiers. That</p>

29 (Pages 113 to 116)

<p style="text-align: right;">Page 117</p> <p>1 Michael Plummer</p> <p>2 commission is paid by whom?</p> <p>3 A. It's paid by the buyer as part of</p> <p>4 the purchase price.</p> <p>5 Q. So if the purchase price was 100</p> <p>6 million, and just for rounding numbers that are</p> <p>7 simple, and there was going to be a 10 percent</p> <p>8 total commission would the buyer have to pay 110</p> <p>9 million?</p> <p>10 A. Correct.</p> <p>11 Q. So your point is that the auction</p> <p>12 houses started including that additional 10</p> <p>13 million as part of the sale of the value of the</p> <p>14 art, correct?</p> <p>15 A. Which is legitimate, except that</p> <p>16 when they compare it to the pre-sale estimate</p> <p>17 which doesn't include it that's buyer's premium.</p> <p>18 So to use your example, if we said that the</p> <p>19 estimate was 80 to, let's say the estimate was</p> <p>20 100 to 120 million and it sold for 100 million</p> <p>21 and they put on the buyer's premium, it really</p> <p>22 sold at the low estimate, but once they put the</p> <p>23 buyer's premium on they would say it sold in</p> <p>24 between the low and high estimate, which is a</p> <p>25 distortion of the health of the market.</p>	<p style="text-align: right;">Page 119</p> <p>1 Michael Plummer</p> <p>2 Q. Is it typical in the industry that</p> <p>3 it is?</p> <p>4 A. It depends on the sector, the</p> <p>5 desirability of the property, the clout of the</p> <p>6 client, the power of the client's negotiator or</p> <p>7 agent. There are instances when in highly</p> <p>8 desirable situations, and we've written about</p> <p>9 this, a seller gets back part of the buyer's</p> <p>10 premium as a rebate.</p> <p>11 Q. So that the seller's commission is</p> <p>12 lower then, or at least it gets a rebate on</p> <p>13 that, correct?</p> <p>14 A. Well, no. I'm saying that the</p> <p>15 seller's commission might be zero or they might</p> <p>16 get part of the buyer's premium.</p> <p>17 Q. As well?</p> <p>18 A. As well.</p> <p>19 Q. So it would increase the ultimate</p> <p>20 return on the sale?</p> <p>21 A. Correct.</p> <p>22 Q. You mentioned the impact of the</p> <p>23 litigation as another factor you took into</p> <p>24 account?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 118</p> <p>1 Michael Plummer</p> <p>2 Q. Understood, and actually very</p> <p>3 clear, thank you. Just so the Court is aware of</p> <p>4 the process. Part of the process in an auction,</p> <p>5 and using our hypothetical round numbers, would</p> <p>6 be the buyer's premium, the buyer pays that.</p> <p>7 So then there is this hundred</p> <p>8 million. From that hundred million, would that</p> <p>9 go to the seller or would there be other costs</p> <p>10 deducted before it goes back to the seller?</p> <p>11 A. If it were indeed a \$100 million</p> <p>12 item nothing would go back to the house from the</p> <p>13 seller because they would have a fantastic deal.</p> <p>14 But if it were an average item of lower value</p> <p>15 then there would be a seller's commission</p> <p>16 charged as well, again in the 20 percent range</p> <p>17 or higher.</p> <p>18 Q. So the auction house is getting a</p> <p>19 buyer's premium commission from the buyers and</p> <p>20 at the same time would be getting a seller's</p> <p>21 commission from the seller?</p> <p>22 A. Right.</p> <p>23 Q. That could be the equivalent of the</p> <p>24 buyer's commission?</p> <p>25 A. It could be.</p>	<p style="text-align: right;">Page 120</p> <p>1 Michael Plummer</p> <p>2 Q. What resources did you use as the</p> <p>3 basis for that opinion?</p> <p>4 A. I used research into various other</p> <p>5 examples that are mentioned in my report. One</p> <p>6 of the most relevant cases was the Fisk</p> <p>7 Stieglitz collection, which was tied up in Court</p> <p>8 for five years by the Attorney General of the</p> <p>9 state of Tennessee.</p> <p>10 Q. Anything else?</p> <p>11 A. There were some other examples I</p> <p>12 use in the report. I can't remember right now</p> <p>13 what they are, but they're outlined in the</p> <p>14 report.</p> <p>15 Q. Other than the examples in the</p> <p>16 report, was there anything else that you relied</p> <p>17 on?</p> <p>18 A. I don't believe so, other than what</p> <p>19 is in the report and what materials are</p> <p>20 referenced in the report.</p> <p>21 Q. Have you had personal experience in</p> <p>22 being part of a sale of a collection of art that</p> <p>23 was held up in litigation?</p> <p>24 A. No, but I am familiar with the</p> <p>25 importance of clear title in the selling of art</p>

30 (Pages 117 to 120)

<p style="text-align: right;">Page 121</p> <p>1 Michael Plummer</p> <p>2 at auction and the problems that result. I am</p> <p>3 very sensitive to that issue and aware of its</p> <p>4 relevance.</p> <p>5 Q. In connection with applying this</p> <p>6 factor, did you do any research regarding the</p> <p>7 title of the art at the DIA?</p> <p>8 A. It was in the data that was given</p> <p>9 to me by the DIA which is outlined in the</p> <p>10 report, the donors were listed with the items.</p> <p>11 Q. In addition to the donors being</p> <p>12 listed, was there any information regarding the</p> <p>13 transferability and alienability of the art?</p> <p>14 A. I did not research that.</p> <p>15 Q. So in connection with your opinion</p> <p>16 regarding the impact of that litigation, you</p> <p>17 were assuming, for purposes of this opinion,</p> <p>18 that there might be some concern regarding the</p> <p>19 alienation of this art or the transferability of</p> <p>20 this art, and as such you're applying that</p> <p>21 factor, correct?</p> <p>22 A. I would say that it's more than an</p> <p>23 assumption. I am fairly, certain based on my</p> <p>24 experience in the art market, that there will be</p> <p>25 litigation to stop the sale of art that has been</p>	<p style="text-align: right;">Page 123</p> <p>1 Michael Plummer</p> <p>2 lower their value and/or lower their ability to</p> <p>3 be sold, and that a number of collectors will</p> <p>4 boycott sales.</p> <p>5 There's a practical matter that</p> <p>6 most collectors in America or around the world,</p> <p>7 but particularly in America, are on boards of</p> <p>8 directors -- are on the boards of other</p> <p>9 institutions, and it is hard to imagine many of</p> <p>10 those people bidding publicly or having agents</p> <p>11 bid on their behalf for works of art from the</p> <p>12 DIA, and not then have backlash within the</p> <p>13 institutions which they are supporting.</p> <p>14 Q. Did you do any formal analysis in</p> <p>15 the form of any kind of a survey or attempt to</p> <p>16 do something of a -- some type of analysis of a</p> <p>17 review of various institutions or collectors to</p> <p>18 come to this conclusion?</p> <p>19 A. No, I did not do a survey; but I</p> <p>20 certainly had many collectors and others who</p> <p>21 serve as collectors expressing those comments</p> <p>22 and those feelings.</p> <p>23 Q. How many anecdotal expressions</p> <p>24 would you --</p> <p>25 A. Well --</p>
<p style="text-align: right;">Page 122</p> <p>1 Michael Plummer</p> <p>2 gifted to the museum.</p> <p>3 I should add in addition, I also in</p> <p>4 the course of researching this report did speak</p> <p>5 to various museum professionals on other matters</p> <p>6 such as the art lending and that sort of thing,</p> <p>7 and such issues came up in those conversations</p> <p>8 as well.</p> <p>9 Q. When you say the museum</p> <p>10 professionals, you're talking about</p> <p>11 professionals at the DIA?</p> <p>12 A. No, at other museums.</p> <p>13 Q. In connection with your certainty</p> <p>14 that there would be litigation regarding the</p> <p>15 transfer of any of this art, did you talk to</p> <p>16 anybody at the DIA?</p> <p>17 A. No.</p> <p>18 Q. The next thing you mentioned was</p> <p>19 the impact of taint in the American sector.</p> <p>20 What does that mean?</p> <p>21 A. I think that the sale of -- and I</p> <p>22 address this in several locations in my report,</p> <p>23 the sale of the collection of the DIA will be</p> <p>24 highly criticized and create an aura around</p> <p>25 works from the DIA and their sale that will</p>	<p style="text-align: right;">Page 124</p> <p>1 Michael Plummer</p> <p>2 Q. Excuse me. How many anecdotal</p> <p>3 expressions like that would you say you</p> <p>4 obtained?</p> <p>5 A. 20 to 30.</p> <p>6 Q. Go on, you were going to say</p> <p>7 something.</p> <p>8 A. What was I going to say.</p> <p>9 MR. IRWIN: That's why you started</p> <p>10 your question.</p> <p>11 MR. SOTO: I did not.</p> <p>12 MR. IRWIN: You were talking about</p> <p>13 conversations you had.</p> <p>14 A. Oh, yes. Also, one of my</p> <p>15 consulting specialists worked on the Larry</p> <p>16 Salander bankruptcy and she is responsible for</p> <p>17 liquidating that collection. Her own experience</p> <p>18 with the Larry Salander property is that it has</p> <p>19 a taint about it, and particularly around the</p> <p>20 high end it's difficult to sell.</p> <p>21 There is a general problem in the</p> <p>22 art market when there is -- when something sort</p> <p>23 of has a bad aura around, it can actually affect</p> <p>24 price and salability.</p> <p>25 Q. I'm not familiar with the Larry</p>

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1 Michael Plummer  
 2 Salander situation that you're referring to.  
 3 What was the bad aura there?  
 4 A. Larry Salander is a bankruptcy case  
 5 of which there is a lot of public information  
 6 on. He had a large collection of property, I  
 7 think about 4,000 items, in most of the Old  
 8 Masters and 19th Century sectors.  
 9 Larry had enormous amounts of  
 10 property on consignment and he went bankrupt,  
 11 and he owed a lot of consigners money and it was  
 12 a very messy case. He I believe is in jail  
 13 because of it, there were criminal proceedings  
 14 against him.  
 15 Q. You don't expect that anyone in the  
 16 DIA is going to go to jail in connection with  
 17 this bankruptcy, do you?  
 18 A. I was not expecting that.  
 19 Q. Nobody at the DIA has put their art  
 20 on consignment as far as you know, have they?  
 21 A. I don't know.  
 22 Q. In connection with these seven  
 23 factors that we've gone through, do you start  
 24 with a basic appraised value and then apply  
 25 these seven factors as an additional factor in

1 Michael Plummer  
 2 what you're referring to as an evaluation  
 3 instead of an appraisal?  
 4 A. Could you ask that question again,  
 5 please?  
 6 Q. I had asked you if you had done an  
 7 appraisal and you said no, we did an evaluation?  
 8 A. Right.  
 9 Q. You gave me the seven factors as  
 10 factors that you think are part of an evaluation  
 11 that are not typically part of an appraisal,  
 12 right?  
 13 A. Correct.  
 14 Q. What I'm asking is -- I understand  
 15 your view on those seven factors. My next  
 16 question is do you also do an appraisal to begin  
 17 to understand the value of a piece of art and  
 18 then apply these additional factors?  
 19 A. I want to be careful about  
 20 terminology here because I think it can trip us  
 21 up. I created a fair market value by using  
 22 comparables, which is the industry standard  
 23 practice, on the -- which is outlined in the  
 24 report on the top 400 some works of art.  
 25 Then I combined that with the

1 Michael Plummer  
 2 Christie's appraisal and then did a calculation  
 3 to estimate the value of the remainder of the  
 4 collection, and added those numbers together to  
 5 come to an indicative value of the collection on  
 6 which I based the other rest of the analysis.  
 7 Q. I think that might answer my  
 8 question indirectly, but let me make sure. So  
 9 you certainly created, as your report says, what  
 10 you termed the fair market value analysis of the  
 11 top 400 works of art, and you did that by  
 12 looking to see if there were any comparables,  
 13 correct?  
 14 A. Right.  
 15 Q. You were looking for public data  
 16 that would otherwise tell you something about  
 17 the value?  
 18 A. Right.  
 19 Q. Then after you came to some sense  
 20 of that value you also then applied these seven  
 21 factors that you just referred to?  
 22 A. Yes, but we also looked at the art.  
 23 We visited the museum and looked at the art  
 24 which was an important factor.  
 25 Q. For all 400 pieces?

1 Michael Plummer  
 2 A. For most of the 400 pieces. There  
 3 were some that were not available to be seen,  
 4 but as many as we could.  
 5 Q. About 390 plus?  
 6 A. I don't remember the exact number,  
 7 but a substantial percentage of them.  
 8 Q. Would it be over half of it?  
 9 A. Well over half of it.  
 10 Q. So would it be close to maybe  
 11 75 percent of it?  
 12 A. I would say 75 percent is a fair  
 13 guesstimate.  
 14 Q. Let's assume you looked at  
 15 300 pieces of art, you did the comparables; in  
 16 addition to that you got other publicly  
 17 available data regarding the value of the art?  
 18 A. Right.  
 19 Q. You got publicly available data  
 20 regarding the market for that art?  
 21 A. Right.  
 22 Q. That's the beginning step. You  
 23 would then apply these additional seven factors  
 24 if they applied in coming to your valuation?  
 25 A. On a sector-by-sector basis, yes.

1 Michael Plummer

2 Q. And that's why the information that  
3 you got on those 400, you could also use the  
4 information that Christie's did on its 1,700  
5 works of art, correct? Because it was a fair  
6 market value analysis that included comparables  
7 and public data, correct?

8 A. Correct.

9 Q. And you relied on that data?

10 A. Yes, I did.

11 Q. And then having taken Christie's  
12 1,700 pieces of art and your additional 400  
13 pieces, or was it an additional 400 or was it  
14 part and parcel of the same?

15 A. There were some -- we didn't do the  
16 same pieces Christie's did, we did not overlap  
17 with them.

18 Q. For example, Christie's did  
19 Bruegel?

20 A. We did not do the Bruegel.

21 Q. The next thing you did was you took  
22 that body of information, 1,700 or 2,100 works  
23 of art, and you extrapolate in some way to come  
24 to an estimate of the remaining 61,000 pieces of  
25 art, correct?

1 Michael Plummer

2 the rest of the collection that a large part of  
3 it had no value.

4 Q. So you assumed in your estimates  
5 that about a third of the remaining 61,000 had  
6 no value?

7 A. We extrapolated that yes, a portion  
8 of the remaining collection had no value.

9 Q. That proportion was consistent with  
10 the proportion that Christie's did?

11 A. Because we felt that the City of  
12 Detroit property was a reasonable representative  
13 sample of the entire collection.

14 Q. So in a macro analysis if the City  
15 of Detroit collection, if the collection at the  
16 DIA has 62,000 pieces, your estimate is that  
17 about a third of that or maybe 20 or 21,000  
18 pieces have no value, and that the remaining 40  
19 or 41,000 pieces have value, correct?

20 A. Roughly. I'll have to defer to my  
21 report, to the actual numbers in the report.  
22 The proportions are approximately correct.

23 Q. So that's one of the factors that  
24 you used in your extrapolation. That is to say  
25 that which was determined to have no value,

1 Michael Plummer

2 A. Correct. But there's an important  
3 bit of data that we haven't discussed which is  
4 of the universe of works that Christie's looked  
5 at, about a third of it had no value. That's an  
6 important data point in extrapolating any kind  
7 of value on the collection, that there is a  
8 significant part of it that doesn't have value.

9 Q. Let's again make sure we're  
10 comparing apples and apples here. The 1,700  
11 that it did appraise had value?

12 A. Um-hum.

13 Q. It was asked to appraise some  
14 additional art that it determined with the  
15 assistance of the DIA had no value?

16 MR. O'REILLY: Objection to form.

17 A. No. I would say that Christie's  
18 was given a list of City of Detroit property  
19 which was about 3,000 items. Christie's  
20 determined that of that list about a third of it  
21 had no value.

22 Q. So about a third of it had no value  
23 which left you with 1,700 or so, correct?

24 A. Correct. The fact that a third of  
25 it had no value was irrelevant to extrapolate on

1 Michael Plummer

2 correct?

3 A. Correct.

4 Q. What other factors did you use in  
5 your extrapolation?

6 A. In the extrapolation we used the  
7 Christie's data and broke it down by sector, and  
8 then used the profile of the property in each  
9 Christie's sector and applied that to each of  
10 the DIA sectors.

11 Q. In essence, and again I want to  
12 make sure I'm understanding what you're saying;  
13 if you looked at the Christie's appraisal of  
14 what you call City of Detroit collection, that  
15 would include all 3,300 that they were  
16 originally asked to look at, correct?

17 A. Correct.

18 Q. So you would extrapolate a third of  
19 them that had no value. Then you would look at  
20 okay, the remaining 1,700, of that remaining  
21 1,700 what was the value of each sector?

22 A. Right.

23 Q. And then you would extrapolate that  
24 the remaining art in that sector would have that  
25 same extrapolation, correct?

<p style="text-align: right;">Page 133</p> <p>1 Michael Plummer</p> <p>2 A. Correct.</p> <p>3 Q. So that's another factor. You have</p> <p>4 the no value factor, you have the value factor</p> <p>5 that you just gave. What other factors?</p> <p>6 A. At the moment I can't recall if I</p> <p>7 did use other factors.</p> <p>8 MR. SOTO: It's about 12:20, why</p> <p>9 don't we break, let everybody have some lunch,</p> <p>10 then maybe you can think of those other factors</p> <p>11 and then we'll buzz on from here.</p> <p>12 A. Can I add on to the record</p> <p>13 something you asked me about. When you asked me</p> <p>14 about other people that I spoke to about the DIA</p> <p>15 and the testimony and the project, it would of</p> <p>16 course have been internally within my own team</p> <p>17 and my consulting specialists. I just want to</p> <p>18 make sure that was on the record.</p> <p>19 Q. Of course, the specialists that you</p> <p>20 referred to in your report?</p> <p>21 A. Right, right.</p> <p>22 Q. Absolutely. I understood that.</p> <p>23 Thank you for correcting that.</p> <p>24 THE VIDEOGRAPHER: The time is</p> <p>25 12:19 p.m., and we're going off the record.</p>	<p style="text-align: right;">Page 135</p> <p>1 Michael Plummer</p> <p>2 called it a fair market valuation.</p> <p>3 Q. Was there anything that you as an</p> <p>4 expert in the industry would consider a step</p> <p>5 that is typical to an appraisal that Artvest or</p> <p>6 its consultants and specialists didn't do on</p> <p>7 those 400 or so pieces that you just testified</p> <p>8 about?</p> <p>9 A. You're asking me if I feel that</p> <p>10 there was something that an appraisal would have</p> <p>11 that we didn't do?</p> <p>12 Q. With respect to those 400 pieces?</p> <p>13 A. I would say that we used industry</p> <p>14 best practices for setting a fair market value</p> <p>15 on those pieces.</p> <p>16 Q. Just to make it clear to the Court.</p> <p>17 As I understood from some prior depositions I've</p> <p>18 been in that you've probably read, there are a</p> <p>19 number of types of appraisals?</p> <p>20 A. Correct.</p> <p>21 Q. In the art industry?</p> <p>22 A. Correct.</p> <p>23 Q. One of them is in fact called the</p> <p>24 fair market value appraisal?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 134</p> <p>1 Michael Plummer</p> <p>2 (Lunch recess taken)</p> <p>3 THE VIDEOGRAPHER: This begins</p> <p>4 media unit number 3, the time is 1:20 p.m., and</p> <p>5 we're back on the record.</p> <p>6 BY MR. SOTO:</p> <p>7 Q. Mr. Plummer, how are you?</p> <p>8 A. I'm fine, thank you.</p> <p>9 Q. So just before the break I had</p> <p>10 asked -- we had begun a series of questions</p> <p>11 about the appraisal process and you corrected me</p> <p>12 and said that you didn't do an appraisal, you</p> <p>13 did an evaluation, correct?</p> <p>14 A. Correct.</p> <p>15 Q. So in connection with the</p> <p>16 evaluation that was done by Artvest that is the</p> <p>17 basis of your -- or at least one of the bases of</p> <p>18 your expert report in the Chapter 9 proceeding</p> <p>19 in Detroit, did Artvest do any appraisals of any</p> <p>20 art at the DIA?</p> <p>21 A. We established a fair market</p> <p>22 valuation of, as I mentioned earlier, several</p> <p>23 hundred, I think it was around 400 or so items</p> <p>24 using comparable pricing, and it was done by</p> <p>25 people who are trained as appraisers, but we</p>	<p style="text-align: right;">Page 136</p> <p>1 Michael Plummer</p> <p>2 Q. The other one is the auction</p> <p>3 estimate appraisal?</p> <p>4 A. Correct.</p> <p>5 Q. In connection with the 400 pieces</p> <p>6 of art that you were referring to just moments</p> <p>7 ago that Artvest analyzed, is it your testimony</p> <p>8 that on those 400 pieces of art, Artvest</p> <p>9 completed a fair market value appraisal?</p> <p>10 A. We completed a fair market</p> <p>11 valuation.</p> <p>12 Q. So not an appraisal?</p> <p>13 A. We called it a valuation.</p> <p>14 Q. I'm not even concerned about what</p> <p>15 you call it. I'm concerned about whether or not</p> <p>16 we're comparing apples to apples, and when we</p> <p>17 take your 400 pieces of art that you at Artvest</p> <p>18 reviewed and add them to the 1,700 pieces of art</p> <p>19 that Christie's reviewed, which you rely on in</p> <p>20 your report, Christie's described its analysis</p> <p>21 of those 1,700 pieces of art as a fair market</p> <p>22 value appraisal; do you agree with that?</p> <p>23 A. Yes.</p> <p>24 Q. And you reviewed that?</p> <p>25 A. Correct.</p>

34 (Pages 133 to 136)

<p style="text-align: right;">Page 137</p> <p>1 Michael Plummer</p> <p>2 Q. You are talking about the</p> <p>3 400 pieces of art that are being evaluated by</p> <p>4 Artvest.</p> <p>5 Is there something that Artvest</p> <p>6 didn't do with those 400 pieces of art that</p> <p>7 would mean that it is not a fair market</p> <p>8 appraisal of those 400 pieces of art?</p> <p>9 A. There's nothing that we didn't do</p> <p>10 that was different from Christie's that would</p> <p>11 make it difficult or impossible to combine those</p> <p>12 two items as similar numbers derived at with</p> <p>13 similar methodologies.</p> <p>14 Q. Then maybe another way of me asking</p> <p>15 this would be so if someone from Christie's</p> <p>16 looked at what you did on those 400 pieces of</p> <p>17 art and looked at what they did on their 1,700</p> <p>18 pieces of art they'd say yeah, that's a fair</p> <p>19 market value appraisal of those 400?</p> <p>20 MR. IRWIN: Form.</p> <p>21 A. I don't know what they would say, I</p> <p>22 can't speculate. I think that they would see</p> <p>23 the logic behind it and say that we used the</p> <p>24 right logic to come up with a fair market value</p> <p>25 on those pieces.</p>	<p style="text-align: right;">Page 139</p> <p>1 Michael Plummer</p> <p>2 Betty was American Art. Sabine was</p> <p>3 Impressionist and Modern Art, Sabine Wilson, and</p> <p>4 Kristin Gary who did Old Master paintings, who's</p> <p>5 also a member of the Appraisers Association of</p> <p>6 America, had worked previously at Colnaghi</p> <p>7 Gallery years ago and is an active dealer and so</p> <p>8 is very aware of current values, as is Sabine as</p> <p>9 well; not a dealer, but very much involved in</p> <p>10 the market.</p> <p>11 Then Joe-Hynn Yang was an expert in</p> <p>12 Asian Art at Sotheby's and Christie's, but also</p> <p>13 has extensive knowledge of the decorative arts</p> <p>14 and three dimensional objects and ancient art,</p> <p>15 and he did the other objects, other</p> <p>16 non-paintings.</p> <p>17 Q. Are any of those individuals, the</p> <p>18 four individuals you've mentioned, Betty, Sabine</p> <p>19 Kristin and Joe-Hynn?</p> <p>20 A. Yes.</p> <p>21 Q. Are they employees of Artvest?</p> <p>22 A. No.</p> <p>23 Q. So they were retained by Artvest to</p> <p>24 do these services?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 138</p> <p>1 Michael Plummer</p> <p>2 Q. In Christie's report, Christie's</p> <p>3 lists the factors that they considered in coming</p> <p>4 up with their appraisal, correct?</p> <p>5 A. Yeah.</p> <p>6 Q. Are there any factors that they</p> <p>7 considered that you did not consider at Artvest</p> <p>8 in coming up with a valuation for the 400 pieces</p> <p>9 of art?</p> <p>10 A. I don't have that list in front of</p> <p>11 me so I can't recall what is exactly on that</p> <p>12 list. To the best of my knowledge, I don't</p> <p>13 believe there is any.</p> <p>14 Q. So who conducted the evaluations as</p> <p>15 you put it, using your term, let's stick with it</p> <p>16 for now.</p> <p>17 Who conducted the evaluations of</p> <p>18 the 400 pieces of art that Artvest did?</p> <p>19 A. Betty Krulik who is President of</p> <p>20 the Appraisals Association and a dealer in</p> <p>21 American Art, who I have a high opinion of and</p> <p>22 most in the industry have a high opinion of.</p> <p>23 Sabine Wilson, who is also a member of the</p> <p>24 Appraisers Association of America and is a very</p> <p>25 talented appraiser.</p>	<p style="text-align: right;">Page 140</p> <p>1 Michael Plummer</p> <p>2 Q. I don't know if you mentioned it as</p> <p>3 to the last one. I know as to Ms. Krulik, Ms.</p> <p>4 Wilson, is it Ms. Gary?</p> <p>5 A. Yes.</p> <p>6 Q. They are members of the American</p> <p>7 Association of Appraisers Or Appraisal</p> <p>8 Association of America, correct?</p> <p>9 A. Correct.</p> <p>10 Q. So they're qualified to do</p> <p>11 appraisals, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Is Joe-Hynn Yang an appraiser?</p> <p>14 A. He is not an appraiser by</p> <p>15 profession, but he has 15 years experience and</p> <p>16 has worked on numerous appraisals for Sotheby's</p> <p>17 and Christie's, and actually worked on the --</p> <p>18 was a critical participant in the driver of the</p> <p>19 Albright-Knox appraisal, which was a museum sale</p> <p>20 that is relevant to this, or irrelevant</p> <p>21 depending on how the circumstances play out.</p> <p>22 Q. You said Albright-Knox?</p> <p>23 A. Albright-Knox, yeah.</p> <p>24 Q. Albright being one name with a</p> <p>25 hyphen?</p>

35 (Pages 137 to 140)

<p style="text-align: right;">Page 141</p> <p>1 Michael Plummer</p> <p>2 A. Yeah, it's referenced in the</p> <p>3 report.</p> <p>4 Q. Why do you say that it's relevant</p> <p>5 here?</p> <p>6 A. Well, it's relevant in the</p> <p>7 differences in that sale for the sale of works</p> <p>8 in the DIA collection, because that was a sale</p> <p>9 which was for the replenishment of the</p> <p>10 acquisition funds. So, basically, property was</p> <p>11 being sold to move the museum from one area into</p> <p>12 another and it did very well, versus a sale</p> <p>13 which was done to satisfy debt, such as the</p> <p>14 Delaware Museum which has evidence of not doing</p> <p>15 well; so they're very different animals. Both</p> <p>16 examples are in the report.</p> <p>17 Q. So on the Delaware, the distinction</p> <p>18 you're making is in one it was a de -- is it</p> <p>19 de-accession?</p> <p>20 A. Deaccession.</p> <p>21 Q. The one you're talking about in the</p> <p>22 Albright-Knox, that was a deaccession?</p> <p>23 A. Albright-Knox was a deaccession,</p> <p>24 yes.</p> <p>25 Q. And the other one was not a</p>	<p style="text-align: right;">Page 143</p> <p>1 Michael Plummer</p> <p>2 So it's not like frowned upon, but there are</p> <p>3 sanctions in Russia now for what it's doing.</p> <p>4 It's public approbation and there</p> <p>5 are organizational approbations for doing such</p> <p>6 things and the museum could lose its</p> <p>7 certification as a museum.</p> <p>8 Q. How many museums are you aware of</p> <p>9 that are owned by a city?</p> <p>10 A. I don't know.</p> <p>11 Q. In the process of being an expert</p> <p>12 for this particular matter, did you take time to</p> <p>13 determine how many museums in America are owned</p> <p>14 by a city?</p> <p>15 A. I did not.</p> <p>16 Q. It is your understanding that the</p> <p>17 DIA is owned by the City of Detroit, correct?</p> <p>18 A. It is my understanding.</p> <p>19 Q. Was the Delaware museum that you</p> <p>20 are talking about owned by the City of Delaware?</p> <p>21 A. I don't believe that it is.</p> <p>22 Q. Or even the State of Delaware? You</p> <p>23 don't know?</p> <p>24 A. I don't believe it is.</p> <p>25 Q. Do you have any other examples</p>
<p style="text-align: right;">Page 142</p> <p>1 Michael Plummer</p> <p>2 deaccession?</p> <p>3 A. The other was a deaccession, but it</p> <p>4 was a sale for the purpose of paying down debt,</p> <p>5 rather than replenishing the collection of the</p> <p>6 fund, the collection of the museum.</p> <p>7 Q. I thought deaccession meant you are</p> <p>8 selling it in order to replenish the collection</p> <p>9 with some other form of collection, or something</p> <p>10 like that?</p> <p>11 A. It's my understanding deaccession</p> <p>12 is part of the process of removing a work of art</p> <p>13 from a collection, after which then steps are</p> <p>14 taken to sell it.</p> <p>15 Q. So that can be sold for any number</p> <p>16 of reasons, correct?</p> <p>17 A. It can be sold for any number of</p> <p>18 reasons.</p> <p>19 Q. It's your theory that in the art</p> <p>20 world if it's sold to retire debt, people don't</p> <p>21 like those sales?</p> <p>22 A. It's not only my theory, it</p> <p>23 actually runs into some real practical</p> <p>24 obstacles, such as there are various sanctions</p> <p>25 that are imposed against museums for doing that.</p>	<p style="text-align: right;">Page 144</p> <p>1 Michael Plummer</p> <p>2 other than those two that you think are</p> <p>3 relevant?</p> <p>4 A. I think there are some other</p> <p>5 examples on my report.</p> <p>6 Q. That's why I asked that last part</p> <p>7 that you think are relevant to this issue that</p> <p>8 we're discussing today?</p> <p>9 A. I think those two and some other</p> <p>10 examples in my report are relevant.</p> <p>11 Q. The four individuals that you</p> <p>12 mentioned, I guess you already mentioned that</p> <p>13 Mr. Yang is not a certified appraiser. Are the</p> <p>14 other three certified appraisers?</p> <p>15 A. The other three are certified</p> <p>16 appraisers, but Mr. Yang has the equivalence of</p> <p>17 what the Appraisers Association considers</p> <p>18 certification. He has significant auction house</p> <p>19 experience similar to the experts at Christie's</p> <p>20 who worked on the Christie's appraisal.</p> <p>21 Q. Did you personally conduct any</p> <p>22 appraisals in connection with this expert</p> <p>23 report?</p> <p>24 A. I did not personally. I worked</p> <p>25 with the specialists on their appraisals and</p>

36 (Pages 141 to 144)

1 Michael Plummer

2 reviewed all of their numbers.

3 Q. When you say you worked with, what  
4 does that mean?

5 A. I discussed it with them, I  
6 reviewed it.

7 Q. Did you change any of their  
8 opinions?

9 A. No, I did not change them and any  
10 changes that were made, they made. I did not  
11 change their numbers.

12 Q. Did you think any of their work was  
13 incorrect?

14 A. To the extent that it was we had a  
15 discussion about it and then any changes were  
16 made.

17 Q. Can you recall any such instances?

18 A. There were some small adjustments  
19 that were made. It wasn't a matter of  
20 correction but more a matter of opinion, should  
21 it be this much higher or that much lower, that  
22 sort of thing, based on comps and different  
23 things.

24 Q. Did anyone else other than the four  
25 individuals you mentioned and yourself, did

1 Michael Plummer

2 overlap, just like there might be a contemporary  
3 piece that Betty might have expertise on, even  
4 though she was dealing with America pre-1950,  
5 and Sabine and Betty might confer on pieces.

6 Q. Other than the five of you, was  
7 anyone else involved in that process?

8 A. No.

9 Q. How did you ensure quality control  
10 of the process?

11 A. Well, we did the first round of  
12 comps, first checks for them. We had a process  
13 in place that we thought was sound. We did the  
14 first round of comps for them. We then -- they  
15 then either visited the museum or used high res  
16 images or the website images enhanced, in most  
17 cases did both.

18 Actually, all of our appraisers  
19 visited the museum which we felt was rather  
20 important to the process, except for one of  
21 them, Betty, who actually had -- knew the  
22 collection well and had visited the museum many  
23 times previously, so she was already very  
24 familiar with the paintings in the collection.

25 But Sabine, myself, Joe-Hynn Yang

1 Michael Plummer

2 anyone else assist in the appraisal process?

3 A. No.

4 Q. You mentioned different areas of  
5 specialty with respect to the specialists that  
6 you had referred to?

7 A. Right.

8 Q. How did you divide the appraisals,  
9 or evaluations as you called them, among these  
10 consultants?

11 A. Based on their expertise.

12 Q. After the specialists came up with  
13 their valuations, I think you just testified  
14 that you reviewed them?

15 A. Right.

16 Q. Did anyone else review them?

17 A. Well, we worked in a fashion that  
18 we all worked off of a common document on Google  
19 Documents, so they were open for review by the  
20 others on the team.

21 Q. So that each person could comment  
22 on the other person's work?

23 A. Yes, and in some instances there  
24 were comments made and some consultations.

25 There are a couple of instances where there was

1 Michael Plummer

2 and Kristin all visited the museum, and we feel  
3 actually that our visit actually explains why  
4 there are some discrepancies between our  
5 appraisals and the other appraisals, because  
6 those visits in the first-hand inspection  
7 actually made a difference, and that was one of  
8 the ways we ensured quality control.

9 Q. As I understand your testimony, the  
10 way you ensured quality control is that you  
11 visited the museum?

12 A. That was one way.

13 Q. What was the other way?

14 A. The other way was that we did the  
15 first round of comps, then the specialists did  
16 their own additional comps, and then they -- we  
17 reviewed -- they put their logic in of how they  
18 came to their conclusions and then we reviewed  
19 those and came up with final numbers.

20 Q. When you say "we did the first  
21 round of comps" who's the "we"?

22 A. Artvest, my team.

23 Q. That was you?

24 A. And Anya, and another woman who was  
25 working for us on a temporary basis.

1 Michael Plummer  
 2 Q. Who was that?  
 3 A. Her name was Perry Silverman.  
 4 Q. Perry?  
 5 A. Perry.  
 6 Q. P-e-r-r-y?  
 7 A. Yes; and she had had experience in  
 8 searching for comps at Christie's.  
 9 Q. Were you aware of the fact that  
 10 Christie's didn't -- not all of the specialists  
 11 who worked for Christie's analysis of the 1,700  
 12 visited the museum?  
 13 A. No, I know all of them didn't, but  
 14 a number of them did.  
 15 Q. So were you concerned in relying on  
 16 Christie's analysis that some of their  
 17 specialists didn't visit the museum?  
 18 A. No, because I think the important  
 19 fact was that a core group of Christie's did.  
 20 It's not that each expert has to see each piece,  
 21 it's just that they are a representative from  
 22 the body doing the appraisal, visiting the  
 23 museum and seeing it. They can then compare  
 24 notes, they can take a photograph and they can  
 25 talk to the other.

1 Michael Plummer  
 2 Q. So is it your understanding that  
 3 the Christie's individuals who were doing the  
 4 Old Masters visited the museum and reviewed the  
 5 other works?  
 6 A. I don't remember which individual  
 7 experts visited the museum and which didn't, but  
 8 I know that a core group of Christie's  
 9 specialists did go to the museum and did examine  
 10 the works.  
 11 Q. Right. I heard you say that  
 12 before. What I'm asking is different. What I'm  
 13 asking is that core group, wouldn't they have  
 14 been involved in only reviewing the area of art  
 15 that they were interested in?  
 16 MR. IRWIN: Form.  
 17 A. No, not necessarily.  
 18 Q. Do you know whether or not they  
 19 were or weren't?  
 20 A. At this point I don't remember who  
 21 did which set of appraisals and who did not.  
 22 Q. You don't know whether a person who  
 23 did a set of appraisals for American Art, for  
 24 example, also took the time to review the Old  
 25 Masters, do you?

1 Michael Plummer  
 2 A. No, I don't. I don't remember.  
 3 Q. So when you say it's important to  
 4 have a core group but not all go, if not all  
 5 went it may be that some of the sectors were  
 6 simply not seen personally, correct?  
 7 A. I don't remember which sectors were  
 8 seen. I would be surprised if an important  
 9 sector such as Old Masters or American had not  
 10 been viewed, in particular because those sectors  
 11 are the largest sectors.  
 12 Q. So visiting the museum you say is  
 13 important, correct?  
 14 A. Seeing the subject work is  
 15 important.  
 16 Q. Why is that?  
 17 A. Because you see the physical nature  
 18 of the object. You can miss things in  
 19 photographs. Like, for instance, we put a much  
 20 higher value on a Daga that when you see it up  
 21 close -- than Winston did -- that when you see  
 22 it up close it's smudged and it's incomplete and  
 23 unfinished it's just a sketch; where Winston  
 24 didn't see it and they gave it a much higher  
 25 value because they thought it was a more

1 Michael Plummer  
 2 complete and finished picture.  
 3 Q. Any other reason?  
 4 A. Another reason would be size. You  
 5 get a sense of a picture, its power on the wall,  
 6 and you're imagining something based on a  
 7 dimension. But to actually see the picture and  
 8 see how it works on a wall is completely  
 9 different from just looking at it as a picture  
 10 on a piece of paper.  
 11 Q. Anything else?  
 12 A. Condition, you get a better sense  
 13 of condition. Now, there may be good condition  
 14 notes that can offset that, but sometimes you  
 15 can see things that may not be captured by  
 16 another person who might have given the  
 17 condition report.  
 18 Q. Anything else?  
 19 A. There are other subjective  
 20 components that an expert would give you, just a  
 21 feeling about it subjectively by seeing it in  
 22 person that you can't convey in a photograph.  
 23 Q. What would those be?  
 24 A. You know, a feeling for whether  
 25 something was -- the shape of it, the look of it

1 Michael Plummer  
 2 in the third dimension, what it was,  
 3 particularly a sculpture, whether it was real or  
 4 fake, for example. That it looked better in  
 5 person than it did in the photograph.  
 6 One of the arts of the auction  
 7 business is to make things look better in the  
 8 catalog than they actually do in real life, and  
 9 so that's one of the major talents. Having run  
 10 marketing at Sotheby's I can tell you that we  
 11 had trained photographers who made things look  
 12 better than they really did, so a photograph can  
 13 do that.  
 14 Q. These subjective elements as you  
 15 called them and these personal reviews that you  
 16 are referring to, they can cut both ways.  
 17 Somebody can look at a piece of art as you did  
 18 and say wow, that's more valuable than it looks  
 19 in the photo and somebody can look at it and say  
 20 that's less valuable, is that correct?  
 21 A. Correct.  
 22 Q. So in connection with the work that  
 23 you were doing you reviewed or your people  
 24 reviewed personally 400 works of art, correct?  
 25 A. Correct.

1 Michael Plummer  
 2 Q. You don't know how many works of  
 3 art were personally reviewed by Christie's you  
 4 testified about earlier?  
 5 A. I don't.  
 6 Q. You understand that even added  
 7 together, the Christie's and your art, you're  
 8 looking at maybe less than 5 percent or around  
 9 5 percent of the entire collection of the DIA,  
 10 correct?  
 11 A. In terms of numbers, raw numbers,  
 12 yes.  
 13 Q. Does it concern you that somebody  
 14 who looked at some significantly smaller  
 15 percentage of 5 percent is extrapolating to the  
 16 value of the entire collection of 62,000 pieces  
 17 of art.  
 18 Did you want those people to look  
 19 at more art?  
 20 MR. IRWIN: Vague, form.  
 21 A. I would not use the word  
 22 extrapolate. We used a formula based by sector  
 23 using the Christie's sample to develop a value,  
 24 and we thought what we had was adequate for our  
 25 purposes.

1 Michael Plummer  
 2 Q. What word would you use if you  
 3 didn't use extrapolate, what do you call what  
 4 you're doing?  
 5 A. We made an analysis of the  
 6 collection and made a projection based on the  
 7 data by sector that Christie's had done, that  
 8 was a reasonable universe of sampling of the DIA  
 9 collection.  
 10 Q. So in other words, you relied on  
 11 Christie's review, you looked at that percentage  
 12 for each sector, and then you applied the  
 13 formula that you just referred to to the entire  
 14 rest of the collection in that sector, correct?  
 15 A. Right.  
 16 Q. So that if indeed of the original  
 17 1/3 of the works of art that were deemed of too  
 18 little value to be appraised, if 10 percent of  
 19 those were Old Masters, then you apply that same  
 20 10 percent figure in your Old Masters as to what  
 21 was too little value to be appraised, correct?  
 22 A. Correct.  
 23 Q. You don't think that's an  
 24 extrapolation?  
 25 A. You can use extrapolation, I use my

1 Michael Plummer  
 2 language. I prefer to say that we made a  
 3 calculation or an analysis.  
 4 Q. Do you have a word for that besides  
 5 what you just described?  
 6 MR. O'REILLY: Form.  
 7 A. The words I used.  
 8 Q. All right. On page 20 of your  
 9 report. As you're turning to page 20, did you  
 10 have someone on your staff who was doing the  
 11 statistical analysis, running the sampling  
 12 analysis that you used for the process that you  
 13 described earlier?  
 14 A. Yes.  
 15 Q. Who was that?  
 16 A. That would be Mr. Anya Bemis.  
 17 Q. Is Anya Bemis a statistician so  
 18 that she would know what is an appropriate  
 19 sample of a given body of art to extrapolate  
 20 from?  
 21 A. Anya Bemis is not a statistician.  
 22 Q. Did you have a statistician so that  
 23 you could appropriately opine that looking at  
 24 some segment of 5 percent of the art at the DIA  
 25 enables you to extrapolate or to apply the



1 Michael Plummer  
 2 process that you described in the way that you  
 3 described to the rest of the art?  
 4 A. We do not have a statistician. It  
 5 was our opinion that that was -- our methodology  
 6 was sound.  
 7 Q. You based that opinion on what?  
 8 A. On my own professional experience  
 9 in the art market.  
 10 Q. Again, are you a statistician?  
 11 A. No, I am not a statistician.  
 12 Q. Are you a sampler?  
 13 A. I am not a sampler.  
 14 Q. You are not an appraisers either,  
 15 correct?  
 16 A. I am not an appraiser.  
 17 Q. You mention on page 20 of your  
 18 report that you did not interact with the museum  
 19 staff directly, but rather communicated only  
 20 through DIA counsel in conducting the appraisal,  
 21 correct?  
 22 A. Correct.  
 23 Q. Would you normally communicate with  
 24 the museum staff when you were conducting an  
 25 appraisal or an evaluation, as you put it?

1 Michael Plummer  
 2 MR. O'REILLY: Form.  
 3 A. It depends on the circumstances.  
 4 Perhaps in a different circumstance I might, but  
 5 in this situation it did not feel appropriate.  
 6 Q. Did this hinder your evaluation of  
 7 the art?  
 8 A. No, it did not.  
 9 Q. There wasn't anything you wanted to  
 10 ask the folks at the DIA about a given piece of  
 11 art, about maybe some of the subjective factors  
 12 that you mentioned earlier that you couldn't get  
 13 from your lawyers?  
 14 A. There was nothing that we needed  
 15 that we couldn't get.  
 16 Q. How many times have your lawyers  
 17 visited the DIA?  
 18 A. I don't know.  
 19 Q. You didn't ask?  
 20 A. How many times did our lawyers  
 21 visit the DIA?  
 22 Q. Yes.  
 23 A. I don't understand its relevance.  
 24 Q. Didn't you just say it's important  
 25 in assessing art that they should see it

1 Michael Plummer  
 2 personally?  
 3 A. But our lawyers weren't involved in  
 4 the assessing of the art.  
 5 Q. You didn't communicate with anybody  
 6 at the DIA who was involved in the art, did you?  
 7 You only communicated with your lawyers,  
 8 correct?  
 9 A. Right; and any information that we  
 10 used in terms of the subjective issues of the  
 11 art we garnered ourselves from visiting the  
 12 museum.  
 13 Q. That instance where you didn't  
 14 visit the museum, for example, the one person  
 15 who you said didn't, what did you rely on there?  
 16 A. Betty Krulik.  
 17 Q. Yes.  
 18 A. Well, Betty had been to the museum  
 19 multiple times and was exceptionally familiar  
 20 with the collection and all the pieces that were  
 21 in it. So she didn't need to because she had  
 22 already done so multiple times.  
 23 Q. When you went to the museum were  
 24 you allowed to handle the art?  
 25 A. No.

1 Michael Plummer  
 2 Q. Is it customary to handle art in  
 3 connection with an appraisal?  
 4 A. It is desirable to do so if you  
 5 can, but that would have been disruptive to the  
 6 museum and we did not do it.  
 7 Q. Turning to page 17 of your report?  
 8 A. Sure.  
 9 Q. I'm looking at what's under the  
 10 label Group 1?  
 11 A. Yes.  
 12 Q. "High value COD works that were  
 13 appraised by Christie's for greater than  
 14 \$750,000 (68 items)."  
 15 A. Right.  
 16 Q. Did you rely exclusively on  
 17 Christie's valuation of those high value pieces  
 18 of art?  
 19 A. I'm not sure what you mean by that,  
 20 relied exclusively on them.  
 21 Q. I guess what I'm trying to figure  
 22 out is did Artvest do an independent analysis of  
 23 any form in connection with the high value City  
 24 of Detroit works that were appraised by  
 25 Christie's as being greater than \$750,000?

<p style="text-align: right;">Page 161</p> <p>1 Michael Plummer</p> <p>2 A. We looked at their valuations and</p> <p>3 reviewed them, but we did not separately set</p> <p>4 values for them. We reviewed them, we found</p> <p>5 them to be accurate and reasonable and relied</p> <p>6 upon them.</p> <p>7 Q. You didn't change them at all?</p> <p>8 A. We did not change them.</p> <p>9 Q. Did you find the wide range of</p> <p>10 values that were provided by Christie's at all</p> <p>11 unusual?</p> <p>12 A. It was not their normal practice.</p> <p>13 Q. So the answer is it was a little</p> <p>14 bit out of the ordinary?</p> <p>15 A. It was a little bit out of the</p> <p>16 ordinary, but it did not make them unusable.</p> <p>17 Q. Did you -- looking at page 17,</p> <p>18 Group 2. It includes City of Detroit or</p> <p>19 actually "COD works" they call them City of</p> <p>20 Detroit works, "appraised by Christie's of lower</p> <p>21 value, that under \$750,000 including property</p> <p>22 for which they assigned limited or no value" and</p> <p>23 the number is 1,654 with a value and 1,038 with</p> <p>24 limited to no value, and 13 that were combined</p> <p>25 in Phase III?</p>	<p style="text-align: right;">Page 163</p> <p>1 Michael Plummer</p> <p>2 the DIA provide you or Artvest with?</p> <p>3 A. They provided us with a report</p> <p>4 which is mentioned in here which had an image,</p> <p>5 the description, the provenance, the methodology</p> <p>6 that it was -- sorry, what funds were used to</p> <p>7 purchase it, and there was some other</p> <p>8 information which I can't quite remember right</p> <p>9 now. Then we of course did additional research</p> <p>10 to supplement what was given to us.</p> <p>11 Q. What's the provenance?</p> <p>12 A. Provenance is the ownership history</p> <p>13 of a work of art. So if it comes out of an</p> <p>14 important family or a sequence of owners who are</p> <p>15 prominent, it can raise the value of a work of</p> <p>16 art.</p> <p>17 Q. What additional resources did you</p> <p>18 look at to supplement what you got from the DIA?</p> <p>19 A. The DIA's own website, some of the</p> <p>20 DIA's own publications and other publications</p> <p>21 and catalog resumes, most of which are referred</p> <p>22 to in this document.</p> <p>23 Q. In your report?</p> <p>24 A. Yeah.</p> <p>25 Q. Anything other than what's referred</p>
<p style="text-align: right;">Page 162</p> <p>1 Michael Plummer</p> <p>2 A. Right.</p> <p>3 Q. That was the total COD appraised,</p> <p>4 reviewed items by Christie's was 2,773, correct?</p> <p>5 A. Correct.</p> <p>6 Q. In this instance did you rely</p> <p>7 exclusively on Christie's valuation for these</p> <p>8 pieces?</p> <p>9 A. Yes, we did.</p> <p>10 Q. Were you satisfied with Christie's</p> <p>11 valuation?</p> <p>12 A. Yes, we were.</p> <p>13 Q. Did you conduct any additional</p> <p>14 analysis or appraisal of these pieces?</p> <p>15 A. We did not.</p> <p>16 Q. Looking on page 18, Group 3.</p> <p>17 Includes "high value, non-COD works in the DIA</p> <p>18 collection." Do you see that?</p> <p>19 A. Yeah.</p> <p>20 Q. "Contained on a list provided by</p> <p>21 the DIA of works that the DIA valued for</p> <p>22 insurance purposes or otherwise of 1 million or</p> <p>23 more, totaling 350 works." Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Specifically, what information did</p>	<p style="text-align: right;">Page 164</p> <p>1 Michael Plummer</p> <p>2 to in your report?</p> <p>3 A. I subsequently found six other</p> <p>4 books that were referred to that were</p> <p>5 inadvertently excluded, and I can supply that</p> <p>6 list.</p> <p>7 (*r) MR. SOTO: So when you supply me</p> <p>8 with some of the other things like the</p> <p>9 pioneering report and some other things like</p> <p>10 that, I would love to have that list.</p> <p>11 A. Sure.</p> <p>12 Q. Who provided you the materials that</p> <p>13 you got from the DIA?</p> <p>14 A. Counsel.</p> <p>15 Q. Did the DIA provide you with any</p> <p>16 documentation as to appraisals that they had</p> <p>17 conducted previously on any of the art that you</p> <p>18 were interested in?</p> <p>19 A. Later on in the process we received</p> <p>20 a document that had values in it which we</p> <p>21 thought might have been insurance values. They</p> <p>22 were, however, so whacky, for lack of a better</p> <p>23 word, that we had trouble figuring out really</p> <p>24 what they were because they didn't have, except</p> <p>25 in a couple of instances, they didn't bear much</p>

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1 Michael Plummer

2 on reality.

3 I wouldn't say a couple of  
4 instances, there were more than a couple of  
5 instances; but in too many instances they were  
6 unreliable and way off.

7 Q. They were way off in which  
8 direction, too valuable or too little?

9 A. Every way; too little, too high.

10 Q. Did you ever ask anyone at the DIA  
11 what is this, who prepared this?

12 A. No. It was -- it seemed not to  
13 matter. We came to our opinions as to how it  
14 might have happened but it didn't matter, it was  
15 not usable.

16 Q. What was your own opinion that you  
17 arrived at?

18 A. That curators were sticking numbers  
19 on things for various reasons and they didn't  
20 have the market experience to do that. They  
21 were just sort of randomly assigning numbers  
22 either based on personal bias or a lack of  
23 either underestimating or overestimating.

24 Q. Have you produced that information,  
25 the whacky numbers that you got, in connection

1 Michael Plummer

2 with that report?

3 A. Have I produced it?

4 Q. Yes.

5 A. No. It's listed here.

6 Q. It's one of the items listed?

7 A. I believe so.

8 Q. If it's one of the items listed  
9 it's produced with your report.

10 Did you know that, if it's listed  
11 it was produced to me?

12 A. I didn't know that.

13 MR. SOTO: That's right, Geoff?

14 MR. IRWIN: Yes, that specific item  
15 was produced.

16 MR. SOTO: I'm assuming that if  
17 it's listed as something that you based your  
18 report on, we received it in a plethora of  
19 materials that we received from the City and  
20 DIA.

21 MR. IRWIN: So the answer to that  
22 is yes, as far as I know.

23 BY MR. SOTO:

24 Q. Did the DIA, as far as you know,  
25 provide you with any documentation as to the

1 Michael Plummer

2 insurance values of the works of art?

3 A. No. I mean other than that report  
4 I told you which may have been insurance values  
5 or may not, but there is no supplemental  
6 information.

7 Q. But you don't know whether it was  
8 or wasn't?

9 A. I don't know whether it was or  
10 wasn't.

11 Q. Got it. Did you obtain any  
12 documents from the City of Detroit regarding the  
13 value of the art?

14 A. No. Wait, I don't think so. Let  
15 me think for a moment. I don't.

16 Q. So that it's clear, and I think you  
17 may have said this earlier. Was each of these  
18 350 items individually evaluated or appraised by  
19 your team?

20 A. Yes.

21 Q. Each of them, appraisals or  
22 evaluations as you call them, they may be  
23 evaluations, documented in Exhibit G of your  
24 report?

25 A. I'm sorry, ask me that again.

1 Michael Plummer

2 Q. Was each of these evaluations or  
3 appraisals, however up want to say that  
4 document, in Exhibit G of your report on page  
5 72?

6 A. Yes, but there are some additional  
7 work notes that were not summarized here that  
8 are available and can be supplied.

9 Q. Turning to page 72. I see a blank  
10 page that says "Exhibit G" there?

11 A. Right.

12 Q. Then it goes on actually from there  
13 on, Exhibit G?

14 A. Right.

15 Q. In addition to what's there in your  
16 report, which is the vast majority of the pages  
17 in your report; in addition to that there are  
18 some additional work pages that you have?

19 A. Yes.

20 Q. How many of those exist?

21 A. It's a large file. One of my  
22 appraisers did -- was uncomfortable putting the  
23 appraisal logic into this report and she  
24 compiled separate documents for each one because  
25 that's how she prefers to work, so I have a file

<p style="text-align: right;">Page 169</p> <p>1 Michael Plummer</p> <p>2 for all those.</p> <p>3 Q. Which appraiser is that?</p> <p>4 A. Sabine Wilson.</p> <p>5 (*r) MR. SOTO: Again counsel when we</p> <p>6 make our request we will request that file,</p> <p>7 we'll make copies and obviously give you back</p> <p>8 the originals.</p> <p>9 A. We have it in electronic form.</p> <p>10 Q. That's even better. Thanks. What</p> <p>11 is this Exhibit G, in your own description?</p> <p>12 A. This is our reasoning to come up</p> <p>13 with a fair market valuation of these items.</p> <p>14 Q. Who prepared this Exhibit G?</p> <p>15 A. The appraisers that were described</p> <p>16 to you earlier, as reviewed by me.</p> <p>17 Q. So they took the data that they had</p> <p>18 collected and they input it on a form that you</p> <p>19 guys had all agreed to use?</p> <p>20 A. A Google document, yeah.</p> <p>21 Q. A Google document, and that became</p> <p>22 Exhibit G, is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. With the exception of one person</p> <p>25 who had additional information?</p>	<p style="text-align: right;">Page 171</p> <p>1 Michael Plummer</p> <p>2 identified 73 other pieces that we thought had</p> <p>3 been missed in the list that we had been given</p> <p>4 by the DIA.</p> <p>5 It was our sort of double-check on</p> <p>6 making sure that we were including and weren't</p> <p>7 undercounting what we were reviewing.</p> <p>8 Q. You were reviewing pieces of art</p> <p>9 worth?</p> <p>10 A. Over 750,000. We photographed</p> <p>11 those items while in the DIA and then went back</p> <p>12 and researched them. I put an estimate in here</p> <p>13 at the time because that was rather late in the</p> <p>14 process that we thought it might come in between</p> <p>15 80 and 160 million, and that I would provide</p> <p>16 supplemental information after the fact.</p> <p>17 We have now finished that</p> <p>18 evaluation and it has come in to 70 million to</p> <p>19 122 million, so it's lower than -- a little bit</p> <p>20 lower than the low and a good bit lower than the</p> <p>21 high.</p> <p>22 Q. So of these 73 additional pieces of</p> <p>23 art you're saying they came in at a low value of</p> <p>24 70 million and a high value of 122 million?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 170</p> <p>1 Michael Plummer</p> <p>2 A. Correct.</p> <p>3 Q. That additional information by</p> <p>4 Sabine Wilson, did she also input at least some</p> <p>5 of the information that's here in Exhibit G?</p> <p>6 A. The values were input, but the</p> <p>7 summarization she did not.</p> <p>8 Q. So this spreadsheet identifies</p> <p>9 specific works of art that includes high and low</p> <p>10 estimated values for each, correct?</p> <p>11 A. Correct.</p> <p>12 Q. Recognizing that there are some</p> <p>13 descriptions that may be missing that you're</p> <p>14 going to supply in this additional</p> <p>15 documentation, was every piece of art listed in</p> <p>16 Exhibit G individually appraised?</p> <p>17 A. Yes. It was individually reviewed</p> <p>18 to arrive at a fair market valuation.</p> <p>19 Q. Were other pieces that are not</p> <p>20 listed -- pieces of art at the DIA that are not</p> <p>21 listed in your Exhibit G, were other pieces</p> <p>22 appraised by folks at Artvest or who were</p> <p>23 working for Artvest?</p> <p>24 A. We evaluated other pieces, they are</p> <p>25 mentioned in that page as a sub group that we</p>	<p style="text-align: right;">Page 172</p> <p>1 Michael Plummer</p> <p>2 Q. Let me see if I understand the</p> <p>3 process that you started with again. So you got</p> <p>4 a list of 350 or so pieces of art, correct?</p> <p>5 A. Right.</p> <p>6 Q. You got that from the DIA, correct?</p> <p>7 A. Well, actually it was a larger list</p> <p>8 and the overlap -- there was an overlap with</p> <p>9 Christie's, so that ended up netting down to</p> <p>10 350.</p> <p>11 Q. This large list was supposed to be</p> <p>12 works of art worth more than 750,000, correct?</p> <p>13 A. Correct.</p> <p>14 Q. Once you deducted the overlap you</p> <p>15 had 350,000?</p> <p>16 A. 350, Right.</p> <p>17 Q. How did you find the other 73?</p> <p>18 What did you do to find the other 73?</p> <p>19 A. Walking through the museum and</p> <p>20 selecting objects that we thought might possibly</p> <p>21 be of higher value, and then coming back and</p> <p>22 researching, and knowing that they weren't on</p> <p>23 the list, cross-checking against the list then</p> <p>24 assigning values to them.</p> <p>25 Q. Separate and apart from that</p>

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<p style="text-align: right;">Page 173</p> <p>1 Michael Plummer</p> <p>2 walk-through, did anyone at Artvest actually</p> <p>3 look at the list of 62,9000 items of art, the</p> <p>4 data that was given to you about that art,</p> <p>5 including the images and the valuations and</p> <p>6 everything else, to determine if the list that</p> <p>7 the DIA had given you was incomplete in any</p> <p>8 other way?</p> <p>9 You did the walk-through, you found</p> <p>10 out that it was incomplete, at least for 73</p> <p>11 items. Did you then look at the list to find</p> <p>12 out well look, there's a lot of pieces of art</p> <p>13 here that are in storage, maybe there's more</p> <p>14 pieces of art that are more valuable that we</p> <p>15 should be considering as well?</p> <p>16 MR. O'REILLY: Objection to form.</p> <p>17 A. We looked at the list, but we</p> <p>18 determined that going to the museum was the best</p> <p>19 process because the information on the list</p> <p>20 didn't seem to be helpful enough for that</p> <p>21 purpose.</p> <p>22 Q. Do you know if there are any pieces</p> <p>23 of art that are being stored that are not in the</p> <p>24 museum that are worth more than \$750,000 at the</p> <p>25 DIA, as you sit here today?</p>	<p style="text-align: right;">Page 175</p> <p>1 Michael Plummer</p> <p>2 has Betty Krulik's name on it. Then going</p> <p>3 across it talks about a 1985 oil on canvas,</p> <p>4 Mitchell pieces are in, do you see that?</p> <p>5 A. I'm not sure where you are.</p> <p>6 MR. IRWIN: Me neither.</p> <p>7 Q. It looks like this (indicating).</p> <p>8 MR. IRWIN: Here, take mine, we'll</p> <p>9 swap.</p> <p>10 A. Okay.</p> <p>11 Q. Do you see where it says "Summary</p> <p>12 Not Provided"?</p> <p>13 A. Right.</p> <p>14 Q. It has several of them going down</p> <p>15 the page and a few after that on the next page?</p> <p>16 A. Right.</p> <p>17 Q. Is that the instances that you were</p> <p>18 referring to earlier where Sabine Wilson didn't</p> <p>19 provide the information?</p> <p>20 A. Right.</p> <p>21 Q. And that's the information you're</p> <p>22 going to provide to us later?</p> <p>23 A. Correct.</p> <p>24 Q. I just want to make sure. Turn to</p> <p>25 page 18 of your report, that's 18 of 72. Do you</p>
<p style="text-align: right;">Page 174</p> <p>1 Michael Plummer</p> <p>2 A. Can you ask the question?</p> <p>3 Q. Do you know as you sit here today</p> <p>4 whether or not there are any additional pieces</p> <p>5 of art that are worth more than 750,000 that are</p> <p>6 stored by the DIA, not being shown at the DIA</p> <p>7 right now?</p> <p>8 A. I do not know whether there are or</p> <p>9 not.</p> <p>10 Q. Does anyone else at Artvest know</p> <p>11 that?</p> <p>12 A. No.</p> <p>13 Q. So looking at page 13 of your</p> <p>14 spreadsheet. I think it's what you described to</p> <p>15 me earlier but I want to make sure. It's a</p> <p>16 column that doesn't have information in it so I</p> <p>17 want to make sure that's what you were referring</p> <p>18 to earlier.</p> <p>19 MR. IRWIN: Is it the 13th page in</p> <p>20 this document?</p> <p>21 MR. SOTO: Yes.</p> <p>22 MR. IRWIN: Okay. So we'll all get</p> <p>23 to that.</p> <p>24 Q. It starts on the top with</p> <p>25 paintings, Contemporary Art after 1950, and it</p>	<p style="text-align: right;">Page 176</p> <p>1 Michael Plummer</p> <p>2 see Group 4, that's the additional?</p> <p>3 A. That's the additional 73 we</p> <p>4 discussed previously.</p> <p>5 Q. Did you participate in that review,</p> <p>6 the personal review at the museum?</p> <p>7 A. Yes.</p> <p>8 Q. You found some of those 73?</p> <p>9 A. Together with Joe-Hynn Yang, yes.</p> <p>10 Q. Was there anybody else with you?</p> <p>11 A. Just Joe and me.</p> <p>12 Q. When you were there, I think you</p> <p>13 might have testified about this before, you</p> <p>14 didn't talk to anybody at the museum to say hey,</p> <p>15 what about these?</p> <p>16 A. No.</p> <p>17 Q. Had you ever visited the museum</p> <p>18 before then?</p> <p>19 A. No, I never had.</p> <p>20 Q. Did anyone at the DIA escort you on</p> <p>21 the visit?</p> <p>22 A. No.</p> <p>23 Q. Was it done during public opening</p> <p>24 hours?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 177</p> <p>1 Michael Plummer</p> <p>2 Q. Did you ever ask anybody why these</p> <p>3 73 works were not included in the original list</p> <p>4 that you got?</p> <p>5 A. No.</p> <p>6 Q. Did you ask your counsel to ask?</p> <p>7 A. No. To address that I would say</p> <p>8 that we assumed, or concluded, or felt that it</p> <p>9 was probably because of the randomness of the</p> <p>10 numbers in some of their insurance lists that</p> <p>11 these may have been similarly disregarded.</p> <p>12 Q. Did you ask anyone if you could</p> <p>13 visit the museum's collection of stored art?</p> <p>14 A. No, we did not.</p> <p>15 Q. You didn't document or appraise any</p> <p>16 of the stored art?</p> <p>17 A. We did not.</p> <p>18 Q. You mentioned the supplement.</p> <p>19 Hadn't you supplemented your report yet?</p> <p>20 A. I did not.</p> <p>21 Q. Do you plan to?</p> <p>22 A. With that list, yes.</p> <p>23 Q. In any other way?</p> <p>24 A. At the moment I don't have plans</p> <p>25 to, but that could change.</p>	<p style="text-align: right;">Page 179</p> <p>1 Michael Plummer</p> <p>2 A. Yes.</p> <p>3 Q. So you didn't evaluate each of the</p> <p>4 remaining items of the museum, correct?</p> <p>5 A. Correct.</p> <p>6 Q. When you say you applied an average</p> <p>7 price, I just want to understand and I want the</p> <p>8 Court to understand what you did, correct me if</p> <p>9 I'm wrong.</p> <p>10 So, for example, I'm just using a</p> <p>11 hypothetical, assuming there was a value that</p> <p>12 Christie's gave for the Old Masters of, just</p> <p>13 using round numbers, 100 million, and that was</p> <p>14 for so many pieces of art, you would find the</p> <p>15 average value of those so many pieces of art,</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. And that's the average value you</p> <p>19 would use on all the other pieces of art that</p> <p>20 you didn't evaluate that were in that sector,</p> <p>21 correct?</p> <p>22 A. Correct.</p> <p>23 Q. I use the word extrapolate. You</p> <p>24 extrapolated that out to the rest of the sector,</p> <p>25 correct?</p>
<p style="text-align: right;">Page 178</p> <p>1 Michael Plummer</p> <p>2 Q. What would make that change?</p> <p>3 A. I haven't heard the deposition from</p> <p>4 Mr. Wiener, certain things could arise with that</p> <p>5 that would cause me to change.</p> <p>6 Q. Have you reviewed Mr. Wiener's</p> <p>7 report?</p> <p>8 A. I have.</p> <p>9 Q. Does anything in his report lead</p> <p>10 you to want to change your analysis or</p> <p>11 supplement it in any way?</p> <p>12 A. He does not make me want to change</p> <p>13 my analysis, no.</p> <p>14 Q. What about supplementing it?</p> <p>15 A. I'm not sure. I take issue with</p> <p>16 various things in his report and his</p> <p>17 methodology.</p> <p>18 Q. We may get to that. Group 5 on</p> <p>19 page 19. "Balance of the collection. The</p> <p>20 balance of the DIA's collection was evaluated by</p> <p>21 sector using the sample valuation data of the</p> <p>22 COD works appraised by Christie's with a low</p> <p>23 value of at or below \$750,000, and applying an</p> <p>24 average price, sector by sector, based on that</p> <p>25 data." Do you see that?</p>	<p style="text-align: right;">Page 180</p> <p>1 Michael Plummer</p> <p>2 A. We applied those values to the rest</p> <p>3 of the sector.</p> <p>4 Q. Let's go back to page 17. We</p> <p>5 discussed earlier that there are different</p> <p>6 methods of appraisal; for example, fair market</p> <p>7 value, auction estimate, correct?</p> <p>8 A. Correct.</p> <p>9 Q. What method of appraisal did</p> <p>10 Artvest utilize in analyzing Groups 1 and 2,</p> <p>11 which are the works that Christie's previously</p> <p>12 valued?</p> <p>13 A. We did not appraise these, I</p> <p>14 thought we had established that. We had -- we</p> <p>15 reviewed their appraisal and concluded that</p> <p>16 their numbers were good.</p> <p>17 Q. So, as you know, Christie's</p> <p>18 conducted a fair market value appraisal,</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. In your words, what is a fair</p> <p>22 market value appraisal?</p> <p>23 A. A fair market appraisal is an</p> <p>24 appraisal arrived at where a ready, willing and</p> <p>25 able seller reaches a price with a ready,</p>

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<p style="text-align: right;">Page 181</p> <p>1 Michael Plummer</p> <p>2 willing and able buyer where there is no duress</p> <p>3 or urgency to sell.</p> <p>4 Q. Are there particular projects in</p> <p>5 which a fair market appraisal is best to use?</p> <p>6 For example, this project that you're involved</p> <p>7 in, is that the best method to use to appraise</p> <p>8 this type of art?</p> <p>9 A. It is our opinion that a fair</p> <p>10 market value, whether it's an appraisal or a</p> <p>11 valuation, is the right approach for this</p> <p>12 project, yes.</p> <p>13 Q. Why is that?</p> <p>14 A. Because you're determining --</p> <p>15 you're trying to establish a value of the</p> <p>16 collection to the City of Detroit in the</p> <p>17 evaluation of this Court case, and to do that</p> <p>18 one were to start with the fair market value of</p> <p>19 the collection.</p> <p>20 Q. You are aware that Christie's</p> <p>21 relied on the market data method in arriving at</p> <p>22 its fair market valuation, correct?</p> <p>23 A. Correct.</p> <p>24 Q. What is the market data method?</p> <p>25 A. It's looking at comparable prices,</p>	<p style="text-align: right;">Page 183</p> <p>1 Michael Plummer</p> <p>2 A. Correct.</p> <p>3 Q. Why did you choose that form of</p> <p>4 valuation, a fair market value?</p> <p>5 A. Because we thought it was the most</p> <p>6 appropriate for the circumstance.</p> <p>7 Q. Did you consider using an auction</p> <p>8 appraisal value?</p> <p>9 A. No, because auction values are</p> <p>10 designed to entice bidders to bid on something,</p> <p>11 as I like to say, the low estimate appeals to</p> <p>12 the greed of the buyer and the high estimate</p> <p>13 appeals to the greed of the seller. It's a</p> <p>14 psychological estimate track that's not relevant</p> <p>15 to this situation.</p> <p>16 Q. Very interesting, another added bit</p> <p>17 of information. So, for example, if I were</p> <p>18 trying to put on an auction I would want</p> <p>19 estimates to make people think boy, I'm going to</p> <p>20 get a good value for that?</p> <p>21 A. Um-hum.</p> <p>22 Q. So there would be lower estimates?</p> <p>23 A. Um-hum.</p> <p>24 Q. I got it. I'm not that</p> <p>25 knowledgeable about this, but did you consider</p>
<p style="text-align: right;">Page 182</p> <p>1 Michael Plummer</p> <p>2 which is the same methodology we did.</p> <p>3 Q. Anything else?</p> <p>4 A. That's pretty much essentially it.</p> <p>5 Q. Is that a standard methodology</p> <p>6 that's used in coming up with a fair market</p> <p>7 value?</p> <p>8 A. That's pretty standard, yes.</p> <p>9 Q. Moving on to Groups 3 and 4 on page</p> <p>10 18?</p> <p>11 A. Sir, can I have a quick bathroom</p> <p>12 break?</p> <p>13 Q. Absolutely.</p> <p>14 THE VIDEOGRAPHER: The time is</p> <p>15 2:16 p.m., and we're going off the record.</p> <p>16 (Short break taken)</p> <p>17 THE VIDEOGRAPHER: The time is 2:27</p> <p>18 p.m., and we are back on the record.</p> <p>19 BY MR. SOTO:</p> <p>20 Q. We're going to try to go through</p> <p>21 some of the stuff that will be different and</p> <p>22 hopefully won't be repetitive.</p> <p>23 Your prior testimony was that, in</p> <p>24 fact, the evaluation done by Artvest was to come</p> <p>25 up with a fair market value, correct?</p>	<p style="text-align: right;">Page 184</p> <p>1 Michael Plummer</p> <p>2 applying the market cash value appraisal method?</p> <p>3 A. It did not seem appropriate either.</p> <p>4 Q. What is the market cash value</p> <p>5 appraisal?</p> <p>6 A. It's deducting the seller's</p> <p>7 commission and any other fees that would be</p> <p>8 related to selling the art. It's often used for</p> <p>9 art loans and other things where you want to see</p> <p>10 what your net cash is going to be for selling</p> <p>11 something.</p> <p>12 Q. When would the market cash value</p> <p>13 appraisal be used?</p> <p>14 A. You would use it for an art loan,</p> <p>15 would be one example.</p> <p>16 Q. Because you would want to know</p> <p>17 after netting it out this is what you have as</p> <p>18 collateral?</p> <p>19 A. Yeah, but it's interestingly, as a</p> <p>20 matter of common practice, the low estimate for</p> <p>21 the auction house would work as well. That's</p> <p>22 often used by lenders rather than net cash</p> <p>23 value.</p> <p>24 Q. So now what's the difference then</p> <p>25 between the market cash value and the fair</p>

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<p style="text-align: right;">Page 185</p> <p>1 Michael Plummer</p> <p>2 market value?</p> <p>3 A. The fair market value is higher, it</p> <p>4 includes the buyer's premium as well.</p> <p>5 Q. The fair market value?</p> <p>6 A. Yeah. The net cash market value is</p> <p>7 not only missing the seller's commission, but</p> <p>8 it's also missing the buyer's premium.</p> <p>9 Q. So it cuts out commissions and it</p> <p>10 leaves what you're going to net out?</p> <p>11 A. Exactly.</p> <p>12 Q. We've mentioned a number of types</p> <p>13 of appraisals. Are there any other types of</p> <p>14 appraisals that you are aware of that we haven't</p> <p>15 spoken of yet?</p> <p>16 We've talked about insurance</p> <p>17 appraisals, we've talked about auction</p> <p>18 estimates, we've talked about market cash values</p> <p>19 and we've talked about fair market values; is</p> <p>20 there anything else?</p> <p>21 A. There's a replacement value.</p> <p>22 Q. Would that be different than the</p> <p>23 insurance value?</p> <p>24 A. It can be, but it's often used</p> <p>25 interchangeably, but a replacement value is a</p>	<p style="text-align: right;">Page 187</p> <p>1 Michael Plummer</p> <p>2 and appraisals, we talked about the market data</p> <p>3 method of leading to an appraisal?</p> <p>4 A. Right.</p> <p>5 Q. Are there any other methods that</p> <p>6 you're aware of, other than generally getting</p> <p>7 market data that you described earlier?</p> <p>8 A. Well, I think that, you know,</p> <p>9 market data can also mean data that's not</p> <p>10 publicly available. It can also be particularly</p> <p>11 when you're dealing with primary market property</p> <p>12 that you might need to call around to the</p> <p>13 galleries that handle the artists because</p> <p>14 they're not yet traded at auction or that the</p> <p>15 highest prices are traded at auction.</p> <p>16 Q. Looking at page 18 again of your</p> <p>17 report, paragraph B. It says:</p> <p>18 "Artvest conducted the initial</p> <p>19 pricing research and created a source database</p> <p>20 of comparables and other records, then shared</p> <p>21 that with the consulting specialists who then</p> <p>22 did supplemental price searches and other</p> <p>23 research."</p> <p>24 A. Um-hum.</p> <p>25 Q. You've described earlier that you</p>
<p style="text-align: right;">Page 186</p> <p>1 Michael Plummer</p> <p>2 higher value, some people use it as -- some use</p> <p>3 it as a retail value. It presumes that there is</p> <p>4 a time requirement involved in replacing</p> <p>5 something so that a buyer would pay a premium to</p> <p>6 replace it.</p> <p>7 Q. So it gives, generally speaking, a</p> <p>8 higher value?</p> <p>9 A. Correct.</p> <p>10 Q. Are you familiar with the Uniform</p> <p>11 Standards of Professional Appraisal Practice?</p> <p>12 A. I am.</p> <p>13 Q. What are they?</p> <p>14 A. Generally referred to as USPAP,</p> <p>15 they're guidelines for conducting appraisals.</p> <p>16 Q. Did you review the USPAP at any</p> <p>17 time while preparing the DIA evaluation that you</p> <p>18 rely on in your expert report?</p> <p>19 A. I reviewed it and my appraisers are</p> <p>20 USPAP-compliant appraisers, but as it's not --</p> <p>21 USPAP is not required by law or any regulatory</p> <p>22 body and is often not used by many appraisers, I</p> <p>23 didn't think it was critical to this appraisal,</p> <p>24 or this evaluation I should say.</p> <p>25 Q. Separate and apart from valuations</p>	<p style="text-align: right;">Page 188</p> <p>1 Michael Plummer</p> <p>2 used market data comparables and some additional</p> <p>3 private information in coming up with what</p> <p>4 Artvest called its source database, correct?</p> <p>5 A. Um-hum.</p> <p>6 Q. Do you know --</p> <p>7 A. Well that's not how I mean source</p> <p>8 database. No. Okay. You're correct, you're</p> <p>9 correct. Let's go back.</p> <p>10 Q. In what you're calling the source</p> <p>11 database of comparables and other records, I</p> <p>12 believe you testified earlier that included</p> <p>13 market data that was available publicly about</p> <p>14 the art?</p> <p>15 A. Right.</p> <p>16 Q. Comparables that you were aware of</p> <p>17 both publicly, and some private comparables that</p> <p>18 you were knowledgeable of?</p> <p>19 A. Right, right.</p> <p>20 Q. You mentioned some other indices</p> <p>21 and other data that you received on this art.</p> <p>22 That was the database that you prepared at</p> <p>23 Artvest?</p> <p>24 A. Yeah, right.</p> <p>25 Q. You shared that with your</p>

47 (Pages 185 to 188)



1 Michael Plummer  
 2 consultant specialist, correct?  
 3 A. Correct.  
 4 Q. But then you go on to say who then  
 5 supplemented price searches and other research.  
 6 Do you know what they did to supplement that  
 7 database?  
 8 A. Yeah, they then did their own  
 9 searches on Artvest, on Asguard, on Sotheby's  
 10 and on Christie's websites in addition to what  
 11 we gave them, they sort of did their own  
 12 double-check.  
 13 Q. Do you know if they came up with  
 14 additional information?  
 15 A. They did, yes.  
 16 Q. Did you include that additional  
 17 information in the information that you produced  
 18 as supporting?  
 19 A. Those comparables are in the work  
 20 file that I have available to share, that  
 21 electronic document that I referred to earlier.  
 22 Q. That you are going to send us  
 23 later?  
 24 A. Yes.  
 25 Q. Okay. You mentioned on page 20 --

1 Michael Plummer  
 2 am I accurate in my assessment that not every  
 3 piece of work at the DIA had a comparable?  
 4 A. Yes.  
 5 Q. There are some that did not?  
 6 A. Correct.  
 7 Q. How did you value those?  
 8 A. You would look at things that sold  
 9 in related categories.  
 10 Q. You refer to them as once in a  
 11 lifetime pieces of art?  
 12 A. Yeah.  
 13 Q. How many works are sort of once in  
 14 a lifetime?  
 15 A. In the DIA collection?  
 16 Q. Yeah.  
 17 A. I don't know that it's fair to put  
 18 a number off the top of my head on there. Is it  
 19 eight, is it ten, is it five, I don't know.  
 20 Q. Do you recall how many had no  
 21 comparables?  
 22 A. I don't remember how many had none,  
 23 but the non-comparables isn't just to once in a  
 24 lifetime pieces, they're also smaller, less  
 25 expensive works that might not have comparables.

1 Michael Plummer  
 2 Q. So for those where you didn't have  
 3 a comparable you tried to look at to create a  
 4 comparable of some form?  
 5 A. Yes, the closest in another sector.  
 6 Q. In connection with your evaluation,  
 7 is there a specific time period for which a  
 8 comparable is relevant?  
 9 A. That's an interesting question.  
 10 The problem with the art market is that  
 11 sometimes you have to go back many years, even a  
 12 decade or so to find a comparable. So when you  
 13 do that then you have to make an adjustment that  
 14 you think is suitable for the difference in  
 15 time, and the difference in the market then to  
 16 the difference in the market now.  
 17 In some instances actually the  
 18 price could have gone down because the market  
 19 might have been hotter for certain things a  
 20 decade or two ago.  
 21 Q. Let's turn to page 19. In Group 5  
 22 you state that the balance of the DIA's art  
 23 collection was evaluated by sector using the  
 24 sample valuation data of the City of Detroit  
 25 works appraised by Christie's with the low value

1 Michael Plummer  
 2 of at or below 750, and applying an average  
 3 price sector by sector based on the data,  
 4 correct?  
 5 A. Um-hum.  
 6 Q. So here again, just so it's clear  
 7 to the Court, for this lower value, if there was  
 8 ten pieces this lower value from the Christie's  
 9 collection that were in the Old Masters, you  
 10 took the average of those ten and that's the  
 11 average you applied for the remainder of that  
 12 sector, correct?  
 13 A. Correct.  
 14 Q. Is your entire analysis of the  
 15 Group 5 works contained here in this table 2?  
 16 A. What do you mean my entire, do you  
 17 mean the results of the analysis?  
 18 Q. Yes?  
 19 A. Yes.  
 20 Q. Again, the sectors that you  
 21 testified about earlier, those are all the  
 22 sectors that you have identified, correct?  
 23 When you say you did it sector by  
 24 sector you identified the Old Masters, the  
 25 Impressionist, Modernists, the Post War?

<p style="text-align: right;">Page 193</p> <p>1 Michael Plummer</p> <p>2 A. There are other sectors. There was</p> <p>3 the prints and drawings, decorative arts,</p> <p>4 silver, arms and armor. The fact that there</p> <p>5 were so many sectors gave us the feeling that it</p> <p>6 was an appropriate approach to this correction.</p> <p>7 Q. Where can we find the most complete</p> <p>8 list of the sectors that you divided them into?</p> <p>9 A. This is the listing of the sectors.</p> <p>10 Q. So indeed the separations in</p> <p>11 Exhibit G are the sectors?</p> <p>12 A. Correct, correct. I think there</p> <p>13 are maybe eight, nine, ten, something like that.</p> <p>14 Just to clarify, the DIA and Christie's</p> <p>15 differentiate in how they classify things in</p> <p>16 terms of sector.</p> <p>17 It's really a commercial</p> <p>18 distinction versus a curatorial distinction, and</p> <p>19 where we needed to we made the juxtaposition</p> <p>20 from one to the other so that they matched up.</p> <p>21 Q. Did you record the average prices</p> <p>22 in each sector somewhere?</p> <p>23 A. Yes.</p> <p>24 Q. In the report?</p> <p>25 A. In this report, no. It was part of</p>	<p style="text-align: right;">Page 195</p> <p>1 Michael Plummer</p> <p>2 sales results of Sotheby's and Christie's. We</p> <p>3 had accumulated that data and we used it for</p> <p>4 calculation of BIs.</p> <p>5 Then we discarded using it for the</p> <p>6 DIA collection because we felt there was no way</p> <p>7 to make a logical connection between sales of</p> <p>8 Sotheby's and Christie's and average prices, and</p> <p>9 then using -- and the DIA's average price;</p> <p>10 whereas we felt that using a sample of DIA's own</p> <p>11 data would be relevant.</p> <p>12 So I was surprised to see that</p> <p>13 Wiener used the average prices from the</p> <p>14 Sotheby's and Christie's data that we had</p> <p>15 collected to use his valuation on the</p> <p>16 collection.</p> <p>17 Q. So that's one of the things that</p> <p>18 you disagree with what Mr. Wiener did, correct?</p> <p>19 A. Correct.</p> <p>20 Q. You mentioned that there were</p> <p>21 others, what are they?</p> <p>22 A. I don't have his report in front of</p> <p>23 me. There are some ways in which he matched up</p> <p>24 some different methodologies to come to a total</p> <p>25 number that concerned me, and various other</p>
<p style="text-align: right;">Page 194</p> <p>1 Michael Plummer</p> <p>2 the calculation.</p> <p>3 Q. I'm trying to figure out how I'm</p> <p>4 going to find the average prices in each sector.</p> <p>5 Will it be in that thing you send me</p> <p>6 electronically?</p> <p>7 A. I could put it in that thing that I</p> <p>8 send you electronically.</p> <p>9 Q. That would be helpful in trying to</p> <p>10 figure out what averages you used in making your</p> <p>11 calculation.</p> <p>12 A. Sure.</p> <p>13 Q. Thank you. Stepping back in a</p> <p>14 hypothetical situation. Aside from evaluating</p> <p>15 each of the 62,000 pieces and coming up with a</p> <p>16 number or applying the method that you did</p> <p>17 apply, because I've heard about those two, you</p> <p>18 testified about what you applied and obviously</p> <p>19 the other one will take quite a while.</p> <p>20 Is there any other way that you can</p> <p>21 think of doing this kind of a valuation of this</p> <p>22 large a collection?</p> <p>23 A. Yes, there was a methodology that</p> <p>24 we examined and we rejected within about an</p> <p>25 hour, which was using the average prices of</p>	<p style="text-align: right;">Page 196</p> <p>1 Michael Plummer</p> <p>2 things that I would have to have his report in</p> <p>3 front of me and my notes to go into.</p> <p>4 Q. You state that to the extent this</p> <p>5 methodology has a bias, this is again back on</p> <p>6 your page 19, it is likely to overstate the</p> <p>7 value of the DIA collection?</p> <p>8 A. Correct.</p> <p>9 Q. How?</p> <p>10 A. Because when we did the average</p> <p>11 value by sector we got some large average values</p> <p>12 in different sectors like African and others,</p> <p>13 and drawings; then we just used an average value</p> <p>14 based on a total average of the Christie's data.</p> <p>15 We actually did an alternate cut and it dropped</p> <p>16 it down from valuing that part of the collection</p> <p>17 from 600 million to 1 something billion,</p> <p>18 1.2 billion, to about I think it's 130 million</p> <p>19 to 300 million or something hike that.</p> <p>20 So we felt going into it that it</p> <p>21 was a bias, and also because we considered the</p> <p>22 DIA property to have been purchased</p> <p>23 strategically and that it was property bought by</p> <p>24 the City of Detroit for the museum to raise the</p> <p>25 profile of the museum.</p>

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<p style="text-align: right;">Page 197</p> <p>1 Michael Plummer</p> <p>2 So it was more likely to be a</p> <p>3 higher concentration of quality property, a</p> <p>4 balance of property that was given to the</p> <p>5 museum, which would include dregs along with</p> <p>6 high quality of stuff, which often comes in</p> <p>7 collections that are donated.</p> <p>8 Q. On page 19 you also state that for</p> <p>9 property value "below 5,000 I attributed an</p> <p>10 effective value of zero"?</p> <p>11 A. Yes.</p> <p>12 Q. Why?</p> <p>13 A. Because we felt that the cost of</p> <p>14 handling that, and unlike the other property</p> <p>15 where no commission would have been charged, we</p> <p>16 felt that there would have been a commission</p> <p>17 charged for the handling of that property</p> <p>18 because it has a high nuisance value, and</p> <p>19 Sotheby's and Christie's try not to sell or</p> <p>20 value a property in that price range.</p> <p>21 In fact, Sotheby's just went into a</p> <p>22 new venture with eBay to try and find a way to</p> <p>23 solve that problem. So we felt that the cost of</p> <p>24 handling it would net out to zero for the value</p> <p>25 of it.</p>	<p style="text-align: right;">Page 199</p> <p>1 Michael Plummer</p> <p>2 directors are important. They spend a lot of</p> <p>3 money making donations to museums and</p> <p>4 cultivating those relationships.</p> <p>5 If they were to sell this art they</p> <p>6 would destroy their relationship with the museum</p> <p>7 community in America and that is a high price to</p> <p>8 pay, and it would do serious damage to their</p> <p>9 brand. I think that the fallout that Christie's</p> <p>10 received after just doing the appraisal was</p> <p>11 indicative of how much more magnified it would</p> <p>12 be if they were to actually handle the sale of</p> <p>13 the DIA property.</p> <p>14 Q. Did you speak with anyone at</p> <p>15 Sotheby's about this to determine whether they</p> <p>16 would --</p> <p>17 A. Hum, I did not --</p> <p>18 Q. That they would not touch it with a</p> <p>19 10-foot barge pole. Was it a 10-foot barge</p> <p>20 pole? I just want to be sure.</p> <p>21 A. A 10-foot barge pole. I avoided</p> <p>22 speaking to people at the auction houses about</p> <p>23 this project that I'm working on. I did hear</p> <p>24 someone senior at one of the auction houses say</p> <p>25 such a thing. I am very aware of Sotheby's</p>
<p style="text-align: right;">Page 198</p> <p>1 Michael Plummer</p> <p>2 Q. If you know, if someone were to</p> <p>3 approach Sotheby's or Christie's, given your</p> <p>4 experience with both enterprises, with a project</p> <p>5 like the monetization of the art collection at</p> <p>6 the DIA, well, let's ask that later. Let me ask</p> <p>7 the first question. Strike that.</p> <p>8 If someone were to approach</p> <p>9 Sotheby's or Christie's, both enterprises that</p> <p>10 you're familiar with, with a project to sell the</p> <p>11 collection at the DIA, would that be the kind of</p> <p>12 project that would be a pretty exciting project</p> <p>13 to both entities, a very valuable collection,</p> <p>14 well thought of?</p> <p>15 A. It's a valuable collection, it's</p> <p>16 well thought of. My business opinion after</p> <p>17 being in this industry for 35 years and worked</p> <p>18 at both houses, is that I don't think either</p> <p>19 house would touch it with a 10-foot barge pole</p> <p>20 because they -- both houses, just to explain,</p> <p>21 have museum departments that cultivate</p> <p>22 relationships with the museums.</p> <p>23 Museum sales are important to their</p> <p>24 business, curator's opinions are important to</p> <p>25 their business, relationship with the museum</p>	<p style="text-align: right;">Page 200</p> <p>1 Michael Plummer</p> <p>2 long-standing commitment to the City of Detroit,</p> <p>3 it used to be headquartered in Detroit.</p> <p>4 Its largest shareholder for many</p> <p>5 years was a donor to the museum and ran a</p> <p>6 building fund. He still has a close</p> <p>7 relationship to the senior management of</p> <p>8 Sotheby's. He has a wing named after him in the</p> <p>9 DIA. I find it hard to imagine, knowing what I</p> <p>10 know of the management of Sotheby's, that they</p> <p>11 would do it.</p> <p>12 Q. So it's your view that if someone</p> <p>13 were to agree to handle the sale of a collection</p> <p>14 like that, that they would exclude from that the</p> <p>15 works of art that are below 5,000 for which you</p> <p>16 attribute an effective value of zero?</p> <p>17 A. I'm sorry, I'm not following the</p> <p>18 collection.</p> <p>19 Q. What I'm trying to figure out is</p> <p>20 you say they may be worth 5,000 or less, you</p> <p>21 attributed zero, and when you testified about it</p> <p>22 you said it's because it costs a lot of money to</p> <p>23 handle that art and get it ready.</p> <p>24 But in the context of an</p> <p>25 overarching sale of an entire collection like</p>

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<p style="text-align: right;">Page 201</p> <p>1 Michael Plummer</p> <p>2 the City's collection at the DIA, would that</p> <p>3 still be true, would they still be of no value</p> <p>4 in your mind?</p> <p>5 A. Yes, I think it's going to be a</p> <p>6 difficult property to get rid of because it's</p> <p>7 thousands upon thousands upon thousands of items</p> <p>8 which would require years to be sold.</p> <p>9 Q. How many works of art fall in this</p> <p>10 category at the DIA, this below 5,000?</p> <p>11 A. I don't remember.</p> <p>12 Q. Do you have anything you can refer</p> <p>13 to in your report that would refresh your</p> <p>14 recollection?</p> <p>15 A. I don't have numbers, but I have</p> <p>16 that 45.98 percent were between 1,000 and 5,000</p> <p>17 in value.</p> <p>18 Q. 45.89 percent of the overall DIA</p> <p>19 collection?</p> <p>20 A. Right.</p> <p>21 Q. Did you review the publicly</p> <p>22 available information for sales at Sotheby's and</p> <p>23 Christie's to determine how many sales they've</p> <p>24 had in the last year or so, two years or so of</p> <p>25 art that's valued below \$5,000?</p>	<p style="text-align: right;">Page 203</p> <p>1 Michael Plummer</p> <p>2 they were of insignificant value?</p> <p>3 A. We had the data and we did look at</p> <p>4 it, yes.</p> <p>5 Q. And you agreed with their</p> <p>6 assessment?</p> <p>7 A. Yes.</p> <p>8 Q. Turning to Table 2. The figures on</p> <p>9 this table include Christie's valuations and</p> <p>10 Artvest's additional valuations, correct?</p> <p>11 A. Yes, correct.</p> <p>12 Q. And you come to the conclusion that</p> <p>13 the entire museum should have appraised or</p> <p>14 evaluated the collection at between 2.7 billion</p> <p>15 and \$4.6 billion, correct?</p> <p>16 A. Correct.</p> <p>17 Q. In coming to this conclusion you</p> <p>18 didn't inspect or value any of the remaining</p> <p>19 57,181 works of art, did you?</p> <p>20 A. We did not. We valued them by</p> <p>21 virtue of the calculation we made, but we did</p> <p>22 not inspect them.</p> <p>23 Q. On page 20 you exclude some works</p> <p>24 thought to be by?</p> <p>25 A. Modigliani.</p>
<p style="text-align: right;">Page 202</p> <p>1 Michael Plummer</p> <p>2 A. I did not, but I have been</p> <p>3 involved -- I have not.</p> <p>4 Q. Moving on to Table 1 on page 18.</p> <p>5 The figures in this table come from Christie's</p> <p>6 evaluation, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Are you aware that Christie's did</p> <p>9 not actually appraise all 2,760 pieces?</p> <p>10 A. Yes, I am aware of that.</p> <p>11 Q. They didn't appraise 1,038 items,</p> <p>12 correct?</p> <p>13 A. I believe that's -- well, what they</p> <p>14 did was they decided that they were not of</p> <p>15 sufficient value to appraise.</p> <p>16 Q. So they didn't appraise them,</p> <p>17 correct?</p> <p>18 A. They did not appraise them, but</p> <p>19 they did essentially assign them a value of</p> <p>20 zero.</p> <p>21 Q. In your table you attribute no</p> <p>22 value to them at all, correct?</p> <p>23 A. Correct.</p> <p>24 Q. Did you review any of those 1038</p> <p>25 items to see if you agreed with Christie's that</p>	<p style="text-align: right;">Page 204</p> <p>1 Michael Plummer</p> <p>2 Q. The G is silent?</p> <p>3 A. Yes.</p> <p>4 MR. SOTO: Every day I work as a</p> <p>5 lawyer I learn something I didn't know the day</p> <p>6 before.</p> <p>7 Q. Modigliani?</p> <p>8 A. Modigliani.</p> <p>9 Q. Why are you insinuating that the</p> <p>10 works of art at the museum are not authentic?</p> <p>11 A. Because they are not in the Ceroni</p> <p>12 catalogue resume, and there is a lot of</p> <p>13 controversy in that market right now, and there</p> <p>14 is a number of fakes around, and there is</p> <p>15 alternate catalog resume out there that has</p> <p>16 fakes in it.</p> <p>17 So it's a hot controversial topic</p> <p>18 and Christie's should stop selling works that</p> <p>19 are not in Ceroni, and Sotheby's is reluctant to</p> <p>20 do so as well. So the common practice is to</p> <p>21 give it a value of zero or a minimal value;</p> <p>22 certainly not to value it as a real Modigliani.</p> <p>23 Q. How many works of art does a museum</p> <p>24 have that are Modiglianis?</p> <p>25 A. I don't remember the total amount.</p>

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1 Michael Plummer  
 2 I think that Christie's did value one and I  
 3 believe there were two which we had took issue  
 4 with, if I remember correctly.  
 5 Q. So they did one?  
 6 A. And we had two.  
 7 Q. You took issue with them both?  
 8 A. I believe so, but I can't remember  
 9 for certain.  
 10 Q. Do you know if the museum insured  
 11 those pieces?  
 12 A. I don't remember.  
 13 Q. Do you know if there was an  
 14 insurance value for any of those pieces?  
 15 A. I don't remember.  
 16 Q. You also excluded the Diego Rivera?  
 17 A. Yes.  
 18 Q. Why was that?  
 19 A. It is -- according to the standards  
 20 of the Appraisers Association of America, and  
 21 Liz von Habsburg agreed with this analysis as  
 22 well, so it's two of us who came to the same  
 23 conclusion that if an important -- if a mural is  
 24 a part of a building and it would damage it to  
 25 remove it, it should be valued as part of the

1 Michael Plummer  
 2 real estate of the building and not separately  
 3 as a work of art, because it really is not  
 4 removable.  
 5 This is really particularly true of  
 6 the Diego Rivera murals because they are so  
 7 large that they would have to be sliced up in  
 8 the middle of the imagery in order to move them,  
 9 and that would cause one set of damage, plus the  
 10 active removal would cause another set of damage  
 11 so then they would require heavy restoration.  
 12 The damage would be an injury to the work and it  
 13 would -- it just -- it can't be valued as a  
 14 salable work of art.  
 15 Q. Do you know how the DIA initially  
 16 acquired this work of art?  
 17 A. It's my understanding that they  
 18 were a gift from Ansel Ford, if Ansel is  
 19 correct, and that they were painted by Diego  
 20 while he camped out there for a period of time  
 21 to complete them, and that actually just after  
 22 completing those he rushed up to New York to  
 23 paint the ones at Rockefeller Center that were  
 24 then subsequently painted over by Nelson  
 25 Rockefeller. This is a masterpiece.

1 Michael Plummer  
 2 Q. Did they have to remove the works  
 3 from Ansel Ford's site to the DIA?  
 4 A. No, I was not aware of that.  
 5 Q. So they were painted at the DIA?  
 6 A. They were painted at the DIA.  
 7 Q. That's what I'm trying to ask. Is  
 8 it possible, do you know of murals of this type  
 9 that have been moved?  
 10 A. There have been some smaller murals  
 11 moved from churches and things.  
 12 Q. Did you consider the possibility of  
 13 doing that when you valued the Diego Rivera?  
 14 A. As I said, we did consider it, and  
 15 we talked to a Diego Rivera expert as well.  
 16 It's as I said for the reasons I mentioned,  
 17 breaking them up and giving that kind of risk.  
 18 Q. Looking at what has been called the  
 19 market issues affecting sales, we're going to go  
 20 to page 24. Your report attempts to address  
 21 some market issues that may affect the value of  
 22 the collection, correct?  
 23 A. Um-hum.  
 24 Q. On page 24.  
 25 MR. O'REILLY: Just verbal answers.

1 Michael Plummer  
 2 Q. Whenever anybody wants to take  
 3 another break some time in the middle of the  
 4 afternoon to get some coffee or something,  
 5 whatever you want.  
 6 A. Okay. Thank you.  
 7 Q. Paragraph 37 on page 24 says, "A  
 8 significant segment of DIA's collection is in  
 9 areas that have fallen out of favor with  
 10 collectors." Correct?  
 11 A. Correct.  
 12 Q. The performing sectors that you  
 13 identify that have fallen out of favor, and you  
 14 mentioned some of them earlier, were American  
 15 Art pre-1950, Old Masters and 19th Century  
 16 European paintings?  
 17 A. Um-hum.  
 18 Q. And then also Impressionist and  
 19 Modern Art, correct?  
 20 A. Correct.  
 21 Q. What is the basis for this opinion?  
 22 How did you determine that these were  
 23 underperforming sectors?  
 24 A. Well, I think the index here from  
 25 Mei-Moses points this out on page 24. I think

1 Michael Plummer  
2 that's a factual representation. I would say  
3 also every day of my business both with Artvest  
4 and also with Spring Masters, working with  
5 dealers and collectors in these areas, and just  
6 this past week I had the same conversation with  
7 five different dealers in these areas that said  
8 the same thing that I'm saying here.

9 So this is borne out in everything  
10 I experience. So I would, you know, challenge  
11 you to find a dealer out there who would  
12 disagree with this, or an auction house expert.

13 Q. Did you do any research to  
14 determine what was the basis of this chart 18  
15 that you have here, the 2003 index?

16 A. I know how the Mei-Moses index is  
17 completed. I've known Michael Moses for ten  
18 years, I've been studying indexes in the art  
19 industry. I actually helped construct one that  
20 we used for a period of time several years ago.

21 I know he uses repeat sales index.  
22 I know some people don't like that, I'm  
23 perfectly fine with it because I think his  
24 database is now complete enough to be  
25 representative of the art market. Ten years ago

1 Michael Plummer

2 Q. That is because?

3 A. I thought this made the case in and  
4 of itself. Mei-Moses, except for a few people,  
5 he is well regarded.

6 Q. You're not concerned with the fact  
7 that he uses repeat sales limits?

8 A. No --

9 Q. Excuse me, limits the database that  
10 he's using?

11 A. No, because I tracked it over ten  
12 years and compared it to other indices I'm  
13 perfectly comfortable with this.

14 Q. The other indices that you referred  
15 to earlier, are they consistent with this one in  
16 the analysis of the value of these sectors?

17 A. Yes.

18 Q. Looking at your chart, it appears  
19 as though all sectors declined in 2008, correct?

20 A. Yes, 2008 was a bleak time for  
21 everybody.

22 Q. This was as you testified about  
23 earlier, the financial crisis that you referred  
24 to?

25 A. Yes.

1 Michael Plummer  
2 I would have said not, but I think it is  
3 absolutely fine now.

4 Q. Ten years ago the difference would  
5 have been what?

6 A. Because he didn't have enough  
7 samples in his database, but he's flushed it out  
8 fully enough that when I compare it to other  
9 indices it actually is comparable.

10 Q. When you say he uses repeat sales  
11 what does that mean?

12 A. It means he gets -- he's gone back  
13 to the 19th Century to get data from a property  
14 that comes back up to auction and then he  
15 measures the price of the same piece each time  
16 it's auctioned and uses that as a data point.  
17 The merits are that he's using a bucket of data  
18 that is actually using identical pieces.

19 Q. Did you consider using any  
20 additional indices to support your conclusion  
21 here, besides the Chart 18, Mei-Moses?

22 A. I did, and I know they show very  
23 similar thing. Art Market Research has the  
24 similar results, but I did not feel it necessary  
25 to apply it here.

1 Michael Plummer

2 Q. Isn't it also true that in a down  
3 market that turnover falls because collectors  
4 are less willing to sell at a depressed rate,  
5 they would rather just hold on to it and sell  
6 later?

7 A. Yes, we had commented on that.

8 Q. As the nation recovers would you  
9 expect that the interest in those sectors would  
10 also increase?

11 A. Not necessarily, for a couple of  
12 reasons. One is that the art market is driven  
13 by a global collector base, and if you're asking  
14 about less recovers I don't think it's  
15 necessarily a linear connection.

16 I also say perhaps more importantly  
17 that the problem with these sectors is that  
18 young collectors, new buyers are moving almost  
19 exclusively into Post War, not into these other  
20 sectors, so they're not getting the new blood  
21 that they need.

22 Q. Looking at your chart, it appears  
23 that the Impressionist and Modern Art sector is  
24 on the rise again, correct?

25 A. From this Mei-Moses index?

<p style="text-align: right;">Page 213</p> <p>1 Michael Plummer</p> <p>2 Q. Yes.</p> <p>3 A. No. I wouldn't say that. I would</p> <p>4 say that the Modern sector is doing better than</p> <p>5 the Impressionist part of the sector, and</p> <p>6 benefits a little bit from spillover from the</p> <p>7 Post War and Contemporary since it's the sector</p> <p>8 just before that; but that sector is pretty</p> <p>9 flat.</p> <p>10 Q. So these green lines here?</p> <p>11 A. The green lines, you can see it</p> <p>12 came back in 2010, but it hasn't shown</p> <p>13 noticeable appreciation between 2011 and 2013.</p> <p>14 In fact, there have been some disappointing</p> <p>15 sales in that area which are mentioned in this</p> <p>16 document.</p> <p>17 Q. Are you familiar with Zhang Yi, an</p> <p>18 author of the TEFAF?</p> <p>19 A. TEFAF.</p> <p>20 Q. T-E-F-A-F, TEFAF Art Market Report?</p> <p>21 A. I am familiar that he's contributed</p> <p>22 to that report as a freelancer, but I actually</p> <p>23 have a very close relationship with the woman</p> <p>24 who actually writes the full report, Clare</p> <p>25 McAndrew, that's who I tend to correspond with</p>	<p style="text-align: right;">Page 215</p> <p>1 Michael Plummer</p> <p>2 find particularly disturbing to you?</p> <p>3 MR. O'REILLY: Objection to the</p> <p>4 form.</p> <p>5 A. I would say at the start that I</p> <p>6 have my own notes and thoughts on this that I</p> <p>7 can't summarize this fully in this exchange with</p> <p>8 you.</p> <p>9 Q. You don't have to summarize them</p> <p>10 fully, just things that are of major disturbance</p> <p>11 to you that you find that are particularly in</p> <p>12 error?</p> <p>13 A. I would say that the value of the</p> <p>14 collection is in error.</p> <p>15 Q. Why is that?</p> <p>16 A. Because I think that it's grossly</p> <p>17 overvalued.</p> <p>18 Q. Why?</p> <p>19 A. Because in his methodology, if you</p> <p>20 look at his methodology step-by-step chart,</p> <p>21 number 3, he's chosen 387 units, which we don't</p> <p>22 know why he's chosen those that he's put a value</p> <p>23 on, where he has put in a supplement based on</p> <p>24 his assumption that the DIA sale is going to be,</p> <p>25 as he puts it, a sale of the century.</p>
<p style="text-align: right;">Page 214</p> <p>1 Michael Plummer</p> <p>2 and communicate with.</p> <p>3 Q. Looking at your report, tab 4?</p> <p>4 A. Table 4 you mean?</p> <p>5 Q. Let me hand you as Exhibit 3.</p> <p>6 (Plummer Exhibit 3, Victor Wiener's</p> <p>7 Expert Report in this Chapter 9 proceeding,</p> <p>8 marked for identification.)</p> <p>9 BY MR. SOTO:</p> <p>10 Q. As Exhibit 3 let me hand you a copy</p> <p>11 of Victor Wiener's report. Exhibit 3 is marked</p> <p>12 here, it's Victor Wiener's Expert Report in this</p> <p>13 Chapter 9 proceeding.</p> <p>14 You testified earlier that you</p> <p>15 reviewed that, correct?</p> <p>16 A. Correct.</p> <p>17 Q. You mentioned that there were a</p> <p>18 number of things that you disagreed with,</p> <p>19 correct?</p> <p>20 A. Correct.</p> <p>21 Q. You've mentioned a few of them</p> <p>22 already, correct?</p> <p>23 A. Correct.</p> <p>24 Q. Take a few moments to take a look</p> <p>25 at it and see if there are any other areas you</p>	<p style="text-align: right;">Page 216</p> <p>1 Michael Plummer</p> <p>2 He has not revealed what that</p> <p>3 supplement is, but it appears to be a multiple</p> <p>4 of three or four or many times, and there</p> <p>5 doesn't seem to be a clearly understandable</p> <p>6 basis for that calculation.</p> <p>7 Then he uses Christie's and my</p> <p>8 appraisal values which he has criticized, but</p> <p>9 yet he uses them. I don't think he criticized</p> <p>10 Winston's, but he uses theirs as well. Then in</p> <p>11 step 3 he has used the DIA values, insurance</p> <p>12 values which we have already mentioned. We did</p> <p>13 an analysis of and found them to be irrelevant.</p> <p>14 Q. Are those the ones you described as</p> <p>15 whacky?</p> <p>16 A. Yes.</p> <p>17 Q. So you're assuming those are the</p> <p>18 insurance values?</p> <p>19 A. Yes. Most likely, to the extent if</p> <p>20 they are insurance values they would be</p> <p>21 replacement values which, as I said, would be</p> <p>22 the highest value. Victor did a net cash</p> <p>23 valuation for step 1. He used our numbers,</p> <p>24 Christie's, Artvest and Winston's which are fair</p> <p>25 market value.</p>

54 (Pages 213 to 216)

<p style="text-align: right;">Page 217</p> <p>1 Michael Plummer</p> <p>2 He then used a replacement value</p> <p>3 methodology for step 3. Then he went back to</p> <p>4 what would be the equivalent of fair market</p> <p>5 value because he used Christie's and Sotheby's</p> <p>6 data.</p> <p>7 For step 4 he used my data to</p> <p>8 basically get an average value based on sales of</p> <p>9 Sotheby's and Christie's, which I told you we</p> <p>10 rejected that methodology as being unsound, as</p> <p>11 there not being any logical connection between</p> <p>12 the property sold at Sotheby's and Christie's</p> <p>13 from what's in the DIA. So he uses all of these</p> <p>14 different methodologies and all of these</p> <p>15 different values to arrive at 8 million 552.</p> <p>16 Q. Anything else that comes to mind as</p> <p>17 you look at it?</p> <p>18 A. Well, he makes claims about my</p> <p>19 process which he had no knowledge of, which are</p> <p>20 untrue. There are other things.</p> <p>21 Q. Let me walk you through some that</p> <p>22 you might have mentioned that I had while</p> <p>23 everyone was eating?</p> <p>24 A. Sure.</p> <p>25 Q. Turn to page 21 of the report. I'm</p>	<p style="text-align: right;">Page 219</p> <p>1 Michael Plummer</p> <p>2 marketing at Sotheby's. He mentions the</p> <p>3 celebratory effect of the Jackie O sale, as I</p> <p>4 mentioned earlier. I worked at Sotheby's on</p> <p>5 that sale so I have real world insight on that</p> <p>6 kind of thinking and marketing.</p> <p>7 To put on a show if you will, to</p> <p>8 put on a promotional effort that we did at</p> <p>9 Sotheby's for Jackie O, or that was even done</p> <p>10 for the Albright-Knox property, there has to be</p> <p>11 a positive feeling behind the celebrity or the</p> <p>12 institution.</p> <p>13 If there is taint you can't market</p> <p>14 it that way, you can't do a big celebratory</p> <p>15 sale, it works against you, it actually</p> <p>16 backfires. So you couldn't do a big, splashy,</p> <p>17 this is the DIA sale, that's not possible.</p> <p>18 In fact, what is comparable to the</p> <p>19 DIA sale is the Klimt paintings that were sold</p> <p>20 in 2006 at Christie's, where they were Nazi</p> <p>21 property that had been given to the Vienna</p> <p>22 Museum and then restituted. Those paintings did</p> <p>23 well, but they did well not because they were</p> <p>24 property from the museum. In fact, the museum</p> <p>25 provenance was hidden in the marketing. The</p>
<p style="text-align: right;">Page 218</p> <p>1 Michael Plummer</p> <p>2 pointing these out to you because you may have</p> <p>3 mentioned something about it and I would be</p> <p>4 interested on what your view is about this,</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. On page 21, the paragraph under</p> <p>8 "Museum provenance" under "The Effects of</p> <p>9 Selling Museum and Celebrity Art":</p> <p>10 "It is apparent that works of fine</p> <p>11 and decorative art, and other collectibles from</p> <p>12 museums and other significant collections</p> <p>13 perform much better at auctions than similar</p> <p>14 objects lacking notable provenance."</p> <p>15 Do you agree with that?</p> <p>16 A. In many instances, but not all.</p> <p>17 Q. How about in the context of the</p> <p>18 collection at the DIA?</p> <p>19 A. I don't think it would apply to the</p> <p>20 collection of the DIA, and I have reasons for</p> <p>21 believing that.</p> <p>22 Q. And why is that?</p> <p>23 A. If the collection were sold it</p> <p>24 would have the taint that I described. If</p> <p>25 the -- now I'm wearing my hat as former head of</p>	<p style="text-align: right;">Page 220</p> <p>1 Michael Plummer</p> <p>2 story that was told was about their restitution</p> <p>3 to the owner.</p> <p>4 So yes, it's true in certain</p> <p>5 circumstances, museum provenance can be</p> <p>6 meaningful and important, but it has to be the</p> <p>7 right circumstance otherwise it can work against</p> <p>8 you.</p> <p>9 I take the case that I use in my</p> <p>10 paper about the Delaware Museum. They went out</p> <p>11 thinking they had \$30 million worth of art to</p> <p>12 sell, that has not gone well, they've been</p> <p>13 sanctioned. They are now expecting that art to</p> <p>14 bring in \$19 million worth and they've had to</p> <p>15 lower their expectations of what they will be</p> <p>16 able to pay down.</p> <p>17 MR. O'REILLY: Ed, I don't want to</p> <p>18 interrupt your flow, do you mind if I take a</p> <p>19 break?</p> <p>20 MR. SOTO: Sure.</p> <p>21 THE VIDEOGRAPHER: The time is</p> <p>22 3:16 p.m., we're going off the record.</p> <p>23 (Short break taken)</p> <p>24 THE VIDEOGRAPHER: This begins</p> <p>25 media unit number 4, the time is 3:27 p.m., and</p>

55 (Pages 217 to 220)



<p style="text-align: right;">Page 221</p> <p>1 Michael Plummer 2 we're back on the record. 3 BY MR. SOTO: 4 Q. Mr. Plummer, looking at the report 5 before you, Exhibit 3, at page 44. Mr. Wiener 6 is commenting on your report there? 7 A. Okay. 8 Q. The paragraph you see: 9 "In brief, Dr. Barth opines that 10 most, if not all, the discounts applied by the 11 Artvest Report are unsustainable because of 12 reliance upon unsupported data. The Barth 13 Report goes through each discount the Artvest 14 Report applies and shows that the data is either 15 lacking or inconsistent with the conclusions 16 reached. As such, the Barth report concludes 17 that the Artvest Report is unreliable." 18 Do you see that? 19 A. I see that. 20 Q. Did you have a chance to review the 21 Barth report? 22 A. I did. 23 Q. What were your conclusions on that 24 report? 25 A. I felt it was -- I disagreed with</p>	<p style="text-align: right;">Page 223</p> <p>1 Michael Plummer 2 Q. The first one is the first 3 paragraph on the potential "See Artvest Report, 4 39 to 40," do you see that? "The Artvest Report 5 also dismisses all expressions of interest"? 6 A. Yes. 7 Q. What is your opinion on that 8 conclusion? 9 A. I reviewed the expressions of 10 interest and I stand by what I say in my report. 11 In fact, I'm not sure why they can disagree with 12 what I've said because it's pretty 13 straightforward. 14 Q. The next paragraph talks about, 15 well, let's see: 16 While VWA did not have direct 17 access to the three potential purchasers, 18 according to Houlihan, Poly International 19 Auction House, who expressed interest in 20 purchasing all Chinese works for up to \$1 21 billion, Yuan Capital, who also expressed 22 interest in purchasing 116 pieces for \$895 23 million to \$1.4 billion, and Catalyst 24 Acquisitions/Bell Capital Partners, who 25 expressed interest in purchasing the entire</p>
<p style="text-align: right;">Page 222</p> <p>1 Michael Plummer 2 her conclusions. She -- her experience and 3 education in the art world is a certificate at 4 Sotheby's works of art program, which actually I 5 used to oversee as part of my role at Sotheby's. 6 I think that she's speaking from a 7 place of not real art world experience and I am, 8 and I think that actually the conclusions are 9 supported, the data is supported, and I stand by 10 it. 11 Q. Anything more than that? 12 A. I probably have more, but I would 13 have to, you know, prepare for it. 14 Q. In connection with the next 15 paragraph that starts: 16 "The Artvest Report also dismisses 17 all expressions of interest by three potential 18 purchasers," do you see that? 19 A. Yes. 20 Q. Did you read that purchase of it? 21 A. Yes, I did. 22 Q. Did you read the next paragraphs 23 that address those potential purchases? 24 A. Which paragraph are you referring 25 to?</p>	<p style="text-align: right;">Page 224</p> <p>1 Michael Plummer 2 collection for \$1.7 billion." 3 Did you try to contact any of those 4 individuals in connection with the preparation 5 of your report? 6 A. I did not. I am familiar with 7 Poly. I expressed in my report that I was 8 unfamiliar with the others. And, as I recall in 9 my report, I believe that I was talking about 10 whether or not the value of the collection would 11 measure up to what these people were interested 12 in buying, and as I read the documents 13 subsequently of what they offered as their 14 indications of interest, there is no binding 15 commitment there, and all of them allow an out 16 to provide a lower value offer if the collection 17 is lower or the section of the collection is 18 lower than what they're asking for. That's 19 pretty much all I said, except for with regard 20 to Ian Peck which is a different issue, and the 21 loan. 22 Q. I was about to go to Ian Peck, but 23 before I do. Did you try to contact these 24 individuals or any other potential monetization 25 entities?</p>

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<p style="text-align: right;">Page 225</p> <p>1 Michael Plummer</p> <p>2 A. I did not.</p> <p>3 Q. You were not asked to either?</p> <p>4 A. I was not asked to.</p> <p>5 Q. Now you were going on to Ian Peck.</p> <p>6 What more did you have to say about his view?</p> <p>7 A. Well, it's interesting. He says</p> <p>8 that my expense calculations are inaccurate, yet</p> <p>9 they are what is in his offer, not only in the</p> <p>10 Houlihan Lokey document, but I read the details</p> <p>11 of his indication of interest that he submitted</p> <p>12 to Houlihan Lokey, and the numbers that I used</p> <p>13 are the numbers that he has in his offering</p> <p>14 documents.</p> <p>15 So I'm surprised -- I'm not</p> <p>16 surprised. I am perplexed that he would say</p> <p>17 that they are inaccurate, when actually the</p> <p>18 documentation submitted supports what I said.</p> <p>19 Q. Anything else?</p> <p>20 A. With regard to the report?</p> <p>21 Q. Yes.</p> <p>22 A. We could go through it page by</p> <p>23 page. I have numerous objections to it, but I'm</p> <p>24 not sure that's the best use of your time today.</p> <p>25 Q. We can certainly come back and do</p>	<p style="text-align: right;">Page 227</p> <p>1 Michael Plummer</p> <p>2 A. Right.</p> <p>3 Q. Other than what you've already</p> <p>4 testified about today, I know you've mentioned</p> <p>5 this before, why do you believe those sectors</p> <p>6 have declined?</p> <p>7 A. For the reason I stated, that</p> <p>8 collectors are migrating into Contemporary Art</p> <p>9 to the exclusion of other sectors.</p> <p>10 Q. Did you notice that the volume and</p> <p>11 sales of those same three sectors in 2012 and</p> <p>12 2013 exceeded previous session models?</p> <p>13 A. Yes.</p> <p>14 Q. Is it possible that the</p> <p>15 Impressionist and Modern paintings sectors</p> <p>16 declined because there were few high quality</p> <p>17 works on the market during the depressed period?</p> <p>18 A. I think some people believed that,</p> <p>19 but I think that it's a function of the reason</p> <p>20 that I stated. That, as I said, comes from not</p> <p>21 only looking at the data but actually talking to</p> <p>22 the dealers in the field, which I indicated</p> <p>23 earlier, dealers and auction house specialists.</p> <p>24 Q. Going to paragraph 25 of your</p> <p>25 report which is on page 9, looking at</p>
<p style="text-align: right;">Page 226</p> <p>1 Michael Plummer</p> <p>2 that, but what I'm asking is a little bit</p> <p>3 different. I appreciate your willingness to do</p> <p>4 that.</p> <p>5 As you sit here today, are there</p> <p>6 any things that you find particularly egregious</p> <p>7 or inaccurate that you haven't testified about</p> <p>8 already?</p> <p>9 A. I mentioned the ones that are top</p> <p>10 of mind. There are others, but I would have to</p> <p>11 go through the report to find them.</p> <p>12 Q. Going back to -- we were talking</p> <p>13 about your report page 6 of 72 in your report,</p> <p>14 paragraph 23 which is actually on page 7,</p> <p>15 paragraph 23 is on page 7.</p> <p>16 A. Okay.</p> <p>17 Q. You state that:</p> <p>18 "Four sectors of the art market</p> <p>19 constitute 98% of the value of the fine art</p> <p>20 market: European, Modern Art, Impressionist and</p> <p>21 Post-Impressionist Art, European Old Master</p> <p>22 Paintings, and Post War and Contemporary Art.</p> <p>23 Of those four sections, three have declined in</p> <p>24 value since 2011."</p> <p>25 Do you see that?</p>	<p style="text-align: right;">Page 228</p> <p>1 Michael Plummer</p> <p>2 subparagraph A. You state that:</p> <p>3 "Selling at or below the low</p> <p>4 estimate is more the norm, and selling at the</p> <p>5 higher end of the estimate range becomes an</p> <p>6 anomaly."</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. You point to the example from</p> <p>10 Christie's evening auction as support for that,</p> <p>11 right?</p> <p>12 A. Right.</p> <p>13 (Plummer Exhibit 4, Article</p> <p>14 prepared by Zhang Yi entitled "Review of Expert</p> <p>15 Witness Report of Michael Plummer, Artvest</p> <p>16 Partners, Dated July 8, 2014", marked for</p> <p>17 identification.)</p> <p>18 Q. Let me hand you Exhibit 4.</p> <p>19 MR. SOTO: For the record,</p> <p>20 Exhibit 4 is an article prepared by Zhang Yi,</p> <p>21 which is Z-h-a-n-g, Yi, Y-i, two separate words</p> <p>22 entitled "Review of Expert Witness Report of</p> <p>23 Michael Plummer, Artvest Partners, Dated July 8,</p> <p>24 2014."</p> <p>25 Q. Have you seen this before?</p>

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<p style="text-align: right;">Page 229</p> <p>1 Michael Plummer</p> <p>2 A. I have, yes.</p> <p>3 Q. It's one of the supplements or one</p> <p>4 of the exhibits to Mr. Wiener's report, correct?</p> <p>5 A. Correct.</p> <p>6 Q. Did you review this?</p> <p>7 A. I did.</p> <p>8 Q. Will you take a look at that report</p> <p>9 in paragraphs 7 through 8?</p> <p>10 A. Yes.</p> <p>11 Q. He states that your analysis as to</p> <p>12 Christie's evening sales was incorrect, I'm</p> <p>13 quoting him:</p> <p>14 "The Artvest Report is incorrect</p> <p>15 about Christie's auction data for the evening</p> <p>16 sales of Impressionist and Modern Art. The</p> <p>17 turnover of that section on May 6th was</p> <p>18 \$285.9 million, and the estimate was between</p> <p>19 \$244.5 million to \$360.4 million." Do you see</p> <p>20 that?</p> <p>21 A. Right.</p> <p>22 Q. Did you check this man's data to</p> <p>23 determine whether you were right or he was</p> <p>24 right?</p> <p>25 A. I did.</p>	<p style="text-align: right;">Page 231</p> <p>1 Michael Plummer</p> <p>2 excluding a price disruption in this sector,</p> <p>3 growth of the art market will remain choppy over</p> <p>4 the near to mid-term in all other sectors other</p> <p>5 than Post War and Contemporary?</p> <p>6 A. Um-hum.</p> <p>7 Q. What's the basis for that opinion?</p> <p>8 A. The basis for that is, as I said,</p> <p>9 all of the data that I talked to you before, all</p> <p>10 of the conversations I talked to you about,</p> <p>11 everything that I've mentioned up to now as to</p> <p>12 my sources of information.</p> <p>13 I should add that I used this in my</p> <p>14 analysis for Citibank last year in the problems</p> <p>15 that Christie's was facing going into the</p> <p>16 future, and the activist investors, Dan Loeb and</p> <p>17 the others, based their activity with Sotheby's</p> <p>18 based on my analysis with Christie's.</p> <p>19 So I would say that my theory is</p> <p>20 not just something that I pulled out of the air,</p> <p>21 but something that is grounded in real world</p> <p>22 experience that others have taken action on,</p> <p>23 financial action on.</p> <p>24 Q. Turn again to Mr. Yi's analysis in</p> <p>25 your report, Exhibit 4. Exhibit 4, page 6 of</p>
<p style="text-align: right;">Page 230</p> <p>1 Michael Plummer</p> <p>2 Q. What was the result?</p> <p>3 A. I was right. What's curious is</p> <p>4 that I have here the 172 is the hammer price,</p> <p>5 and we say that that's the hammer price, and he</p> <p>6 seems to be disregarding that because he's using</p> <p>7 the price plus the buyer's premium which, as I</p> <p>8 told you, distorts the market. So he seems not</p> <p>9 to be adjusting, making the proper adjustments</p> <p>10 we are which shows the real activity in the</p> <p>11 marketplace.</p> <p>12 Q. So the difference between the 285.9</p> <p>13 number that Mr. Yi refers to you believe that it</p> <p>14 includes the buyer's premium?</p> <p>15 A. It includes the buyer's premium,</p> <p>16 but it looks like it includes something else. I</p> <p>17 checked the 172 million and that is the correct</p> <p>18 price, or the hammer price.</p> <p>19 Q. Looking at paragraph 25 B in your</p> <p>20 report, page 10. Your analysis assumes that the</p> <p>21 increase in international art purchases, and I'm</p> <p>22 quoting you here, is not likely to be repeated</p> <p>23 over the next five years. In fact, with growth</p> <p>24 now concentrated almost exclusively in the Post</p> <p>25 War Contemporary sector, I estimate that</p>	<p style="text-align: right;">Page 232</p> <p>1 Michael Plummer</p> <p>2 that exhibit?</p> <p>3 MR. IRWIN: Did you say paragraph 6</p> <p>4 or page 6?</p> <p>5 MR. SOTO: Page 6, paragraph 21.</p> <p>6 Q. Take a moment to read that. I</p> <p>7 assume you have read it before?</p> <p>8 A. Yes. He's saying the opposite of</p> <p>9 what I say. As I said, he may not have</p> <p>10 evidence, but he's not active in the art world</p> <p>11 the way I am on a day-to-day basis.</p> <p>12 Actually, and let me add that I</p> <p>13 have actually had this conversation with Clare</p> <p>14 McAndrew who writes the report that he's</p> <p>15 purporting to actually represent, and she</p> <p>16 actually has agreed with me.</p> <p>17 Q. Looking then back on the TEFAF</p> <p>18 report that you rely on in your report. It</p> <p>19 states that:</p> <p>20 "Emerging markets are increasing</p> <p>21 their importance in the global wealth hierarchy</p> <p>22 and have been growing at faster rates than more</p> <p>23 developed markets, a trend that is expected to</p> <p>24 continue."</p> <p>25 Did you disagree with the TEFAF</p>

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<p style="text-align: right;">Page 233</p> <p>1 Michael Plummer</p> <p>2 report?</p> <p>3 A. No, I don't agree with that -- I</p> <p>4 don't disagree with that.</p> <p>5 Q. Where is the disconnect then</p> <p>6 between your view that this -- are they talking</p> <p>7 about two different sectors of art, is that what</p> <p>8 I'm missing here?</p> <p>9 The TEFAF report says that emerging</p> <p>10 markets will continue to grow, correct?</p> <p>11 A. They will continue to grow, but it</p> <p>12 doesn't say by how much and at what pace.</p> <p>13 Q. It says at faster rates than</p> <p>14 developed market?</p> <p>15 A. Still, it's not saying what that</p> <p>16 impact will be on the larger art market and what</p> <p>17 percentage. All I'm saying is it's not going to</p> <p>18 be the kind of growth that happened from 2003 to</p> <p>19 2012, some years will be up, some years will be</p> <p>20 down. I'm not denying that there won't be</p> <p>21 growth at all.</p> <p>22 Q. So your analysis is that there</p> <p>23 won't be growth, it just might not be as fast as</p> <p>24 it was before?</p> <p>25 A. It might not be as fast as it was</p>	<p style="text-align: right;">Page 235</p> <p>1 Michael Plummer</p> <p>2 A. I promised the people that I talked</p> <p>3 to that I would not reveal who they were.</p> <p>4 Q. Assuming for the moment that the</p> <p>5 DIA did sell its collection, is it your opinion</p> <p>6 that museums would refuse to bid on the, I think</p> <p>7 you described it as once in a lifetime sale</p> <p>8 artworks that you described earlier?</p> <p>9 A. I think there are a number of</p> <p>10 obstacles in the bidding. I think that they</p> <p>11 would be reluctant to, some of them would</p> <p>12 boycott, some of them would have difficulty --</p> <p>13 most of them would have difficulty coming up</p> <p>14 with the funding of the magnitude of some of the</p> <p>15 master works.</p> <p>16 Q. Let's take the example of "The</p> <p>17 Wedding Dance"?</p> <p>18 MR. IRWIN: Sorry, are you done?</p> <p>19 Q. I'm sorry.</p> <p>20 A. I'm not sure. For the moment I'm</p> <p>21 done.</p> <p>22 Q. Take the example of "The Wedding</p> <p>23 Dance" by Peter Bruegel. Is it your testimony</p> <p>24 here that museums would -- if it was going to be</p> <p>25 sold as a City work of art by the DIA, is it</p>
<p style="text-align: right;">Page 234</p> <p>1 Michael Plummer</p> <p>2 in the past.</p> <p>3 Q. Turning to page 25 of your report.</p> <p>4 Under museum purchases you state that:</p> <p>5 "Few sales would be to other</p> <p>6 museums, both because other museums are likely</p> <p>7 to boycott such sales, as well as because</p> <p>8 funding constraints limit their participation in</p> <p>9 the marketplace." Correct?</p> <p>10 A. Correct.</p> <p>11 Q. What is the basis for your</p> <p>12 statement that museums are likely to boycott the</p> <p>13 sale?</p> <p>14 A. Comments made by other museum</p> <p>15 professionals to me.</p> <p>16 Q. Those were again not at the DIA,</p> <p>17 but at other museums?</p> <p>18 A. At other museums.</p> <p>19 Q. I think you testified earlier you</p> <p>20 spoke to about 20 people?</p> <p>21 A. People either in museums or</p> <p>22 associated with museums.</p> <p>23 Q. Can you recall which museums you</p> <p>24 spoke with about the potential sale of art at</p> <p>25 the DIA?</p>	<p style="text-align: right;">Page 236</p> <p>1 Michael Plummer</p> <p>2 your opinion that there would be no museums that</p> <p>3 would bid on that once in a lifetime sale of</p> <p>4 art?</p> <p>5 A. No, I didn't use any -- I never</p> <p>6 used no or all or anything; I just said that it</p> <p>7 would not be the solution that people might</p> <p>8 think it is. I can't sit here and say that no</p> <p>9 one would bid on anything, but I can sit here</p> <p>10 and say that if you're liquidating 100 master</p> <p>11 works that are worth, you know, a billion</p> <p>12 dollars or \$800 million, whatever it works out</p> <p>13 to be, that the museum community is going to</p> <p>14 come up with \$800 million to be able to buy</p> <p>15 those works of art.</p> <p>16 (Plummer Exhibit 5, Article by</p> <p>17 Katherine Boyle from the Washington Post, dated</p> <p>18 October 6, 2013, entitled "Poor Detroit: What</p> <p>19 money giveth, It can taketh away", marked for</p> <p>20 identification.)</p> <p>21 BY MR. SOTO:</p> <p>22 Q. Let me hand you Exhibit 5.</p> <p>23 Exhibit 5 is an article by Katherine Boyle,</p> <p>24 B-o-y-l-e, from the Washington Post, dated</p> <p>25 October 6, 2013, it's entitled "Poor Detroit:</p>

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<p style="text-align: right;">Page 237</p> <p>1 Michael Plummer</p> <p>2 What money giveth, It can taketh away." Do you</p> <p>3 see that?</p> <p>4 A. Yes.</p> <p>5 Q. Have you reviewed this article</p> <p>6 before?</p> <p>7 A. I have, yes.</p> <p>8 Q. What occasioned your review of this</p> <p>9 article?</p> <p>10 A. I read it when it came out.</p> <p>11 Q. The article discusses the potential</p> <p>12 sale at the DIA, correct?</p> <p>13 A. Right.</p> <p>14 Q. Certainly read all of it. If you</p> <p>15 read it already I'm going to ask you some</p> <p>16 questions on the second page where you're</p> <p>17 quoted?</p> <p>18 A. Um-hum.</p> <p>19 Q. As saying:</p> <p>20 "In situations where a museum is</p> <p>21 deaccessioning important pieces, boycotts are</p> <p>22 rare. It's a market driven by opportunism, and</p> <p>23 this would be an opportunity. While one</p> <p>24 collector sits on their hands, another won't."</p> <p>25 Do you see that?</p>	<p style="text-align: right;">Page 239</p> <p>1 Michael Plummer</p> <p>2 their hands, but another won't?</p> <p>3 A. Right.</p> <p>4 Q. You still agree with that, correct?</p> <p>5 A. And that applies to the</p> <p>6 Impressionist sector and the Contemporary</p> <p>7 sectors where I did not factor in a discount.</p> <p>8 But in the American market, for reasons stated</p> <p>9 in the report, I do think people would sit on</p> <p>10 their hands and they would not be opportunistic.</p> <p>11 Q. Is it your view that people in the</p> <p>12 global market are not interested in American</p> <p>13 Art?</p> <p>14 A. Yes. American Art is collected</p> <p>15 almost exclusively by -- no, not almost, it is</p> <p>16 collected exclusively by Americans.</p> <p>17 Q. You further state in this article:</p> <p>18 "There's an enormous amount of</p> <p>19 wealth in this country, and we have some of the</p> <p>20 most active buyers at auction. We shouldn't</p> <p>21 immediately come to the conclusion that someone</p> <p>22 from overseas would buy these works."</p> <p>23 Do you remember making that</p> <p>24 statement?</p> <p>25 A. I do.</p>
<p style="text-align: right;">Page 238</p> <p>1 Michael Plummer</p> <p>2 A. Aha.</p> <p>3 Q. Did you still agree with that</p> <p>4 statement?</p> <p>5 A. This is part of a much fuller</p> <p>6 conversation which got distilled down into two</p> <p>7 sound bites in this piece. What I said was much</p> <p>8 more nuanced, and I think is reflected in my</p> <p>9 report which is, when I said that the taint</p> <p>10 would happen in this collection I was</p> <p>11 referring -- in terms of my numeric approach I</p> <p>12 only applied it to the American sector, and the</p> <p>13 reason for doing that is reflected -- this</p> <p>14 comment reflects that.</p> <p>15 I think outside of America the</p> <p>16 buyers will be less impacted, they'll be less</p> <p>17 concerned about whether it's from the Detroit</p> <p>18 collection. That kind of nuance gets lost in an</p> <p>19 article in the Washington Post, they're just</p> <p>20 trying to get a couple of sound bites out of</p> <p>21 you, but I think it's better reflected in my</p> <p>22 report.</p> <p>23 Q. In the Washington Post you were</p> <p>24 essentially stating in your opinion that in a</p> <p>25 more global market one collector might sit on</p>	<p style="text-align: right;">Page 240</p> <p>1 Michael Plummer</p> <p>2 Q. There you're talking about the</p> <p>3 wealth in America, correct?</p> <p>4 A. Right. I was specifically refer to</p> <p>5 the Post War and Contemporary sector where I did</p> <p>6 not take a discount because, unlike the American</p> <p>7 sector, I don't think the collectors in that</p> <p>8 sector care much about the DIA and would be</p> <p>9 quite -- could be voracious in going after some</p> <p>10 of the works in that collection.</p> <p>11 Q. So the paragraph above the quote I</p> <p>12 just read you says:</p> <p>13 "It's also possible American Art</p> <p>14 collectors would respond to keep the works in</p> <p>15 this country. Some of the most expensive works</p> <p>16 purchased at auction have been sold to American</p> <p>17 collectors: Hedge fund manager Steven Cohen</p> <p>18 bought Picasso's "Le Reve" for \$155 million.</p> <p>19 Billionaire financier Leon Black bought one of</p> <p>20 Edward Munch's "The Scream" for \$120 million.</p> <p>21 It's possible that major museums could partner</p> <p>22 with wealthy buyers to keep the most expensive</p> <p>23 works in the United States." Correct?</p> <p>24 A. I didn't say this, this is the</p> <p>25 author's language.</p>

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Michael Plummer

Q. Do you think that's correct?

A. I don't know. I don't know because -- I don't want to speculate on these individuals and the logic of this because I don't necessarily agree with it.

Q. There would be wealthy Americans who might want to keep American Art in America, correct?

A. Well, American Art wouldn't -- there are no buyers for American Art outside of America. I'm saying American Art will be difficult to sell at all because the collector base would find the collection tainted.

Q. Even private individuals, like these wealthy hedge fund owners?

A. Well, these hedge fund owners don't buy American Art.

Q. Is that your statement?

A. Let me clarify. We're talking about American Art pre-1950; all of the examples here are Contemporary Art or Modern Art. Steve Cohen does not buy American Art pre-1950, Leon Black, to my knowledge, doesn't buy American Art pre-1950, so I don't think that this is really

Michael Plummer

relevant to the point I'm making.

They do buy Contemporary Art, which I mentioned earlier was a sector that I do think that this logic -- the logic that buyers would bid in that area.

Q. Let's go to page 26 of your report. Paragraph 39 you state:

"In this section, I anticipate and quantify various different potential factors that, based on either current market conditions or historic precedent, are likely to have a financial effect on the sale of the art from the DIA collection. Many of these factors are not taken into account in any standard appraisal or fair market situation. I also apply the discount factors for various sale scenarios."

Do you see that?

A. Um-hum.

Q. Now we've discussed some of these issues before, correct?

A. Um-hum.

Q. Didn't you say that you conducted a fair market value evaluation, correct?

A. Correct.

Michael Plummer

Q. So in addition to the fair market value evaluation, you added additional elements that you refer to as factors that are not taken into account in the standard appraisal, correct?

A. Correct.

Q. Is there a reason why you wouldn't have included those factors in your appraisal to begin with, why those factors wouldn't be included if you're really trying to get a fair market value?

Doesn't that mean when you said earlier what a willing seller would sell at and what a willing buyer would buy at?

MR. IRWIN: Form.

A. I felt that the way to get the most transparent and accurate -- the most transparent and logical approach was to apply it en masse so that the reasoning could be understood. I'll give you a counter-example which is that Wiener approach provided a supplement, he did it piece by piece, but it's not transparent. So it's not understandable what methodology he used and how he applied it. Here you can see my logic, you can understand it and you can debate it.

Michael Plummer

Q. Would you agree with me that some appraisers, like even some you're familiar with, would include some of the factors you used in coming at an appraisal value?

A. They might consider some of them for certain pieces but not for others, some of these they wouldn't consider the all.

Q. Let me go through your opinions and get some information on the basis other than what might be here. So on paragraph 41 which is on page 26 you say:

"An immediate liquidation of the art collection will result in selling the DIA collection at a fraction of its fair market value."

Do you see that?

A. Um-hum.

Q. What's the basis of that conclusion?

A. Well, I give examples below, or the example below, the Matisse collection, which is a classic example of that. I think that you could even look at the offers on the table for that Houlihan Lokey brought forward as actually

<p style="text-align: right;">Page 245</p> <p>1 Michael Plummer</p> <p>2 examples of exactly that, that they are offers</p> <p>3 to get a block of property below value and at a</p> <p>4 serious discount.</p> <p>5 Q. So the reason why an immediate sale</p> <p>6 would bring a fraction of it, other than the</p> <p>7 examples you've given would be what, there's too</p> <p>8 much art on the market at one time; is that it?</p> <p>9 A. There are actually various points</p> <p>10 to support this. One is this real-life example</p> <p>11 of Acquavella. Two is that if you put too much</p> <p>12 of a certain thing on the market you will</p> <p>13 depress prices, which is a blockage discount.</p> <p>14 Three, there is the fact that I use as a rule of</p> <p>15 thumb -- I mean, in the art market it is</p> <p>16 standard practice that the loan to value ratio</p> <p>17 for an art loan is 50 percent.</p> <p>18 And the logic behind that, and this</p> <p>19 is something that I -- when I mentioned to you</p> <p>20 that I was setting up lending capacities with</p> <p>21 banks at Christie's, this is a philosophy I got</p> <p>22 into with great complexity with the underwriters</p> <p>23 at various banks that the -- this is a</p> <p>24 long-standing tradition in the art market,</p> <p>25 because 50 percent is felt to be a -- the most</p>	<p style="text-align: right;">Page 247</p> <p>1 Michael Plummer</p> <p>2 works of art if they have sold quickly. So I</p> <p>3 didn't need to do a survey, this is based on</p> <p>4 real world experience.</p> <p>5 Q. So in your experience, how many</p> <p>6 loans have you participated in to date?</p> <p>7 A. I don't know, but many.</p> <p>8 Q. More than 10?</p> <p>9 A. More than 10.</p> <p>10 Q. More than 20?</p> <p>11 A. Possibly. I haven't kept count.</p> <p>12 Q. More than 30?</p> <p>13 A. Possibly. I don't remember.</p> <p>14 Q. What would be your outside number?</p> <p>15 A. I don't know. There are not just</p> <p>16 loans that have gone through, there are loans</p> <p>17 that have been negotiated that have not gone</p> <p>18 through. There are multiple discussions for</p> <p>19 things that don't come to fruition.</p> <p>20 Q. I'm trying to understand the basis</p> <p>21 for your opinion. Based on the experience that</p> <p>22 you have just described, possibly more than 30</p> <p>23 as you put it; you're saying that those loans</p> <p>24 take the art as collateral under the assumption</p> <p>25 that on a quick sale it would only get</p>
<p style="text-align: right;">Page 246</p> <p>1 Michael Plummer</p> <p>2 valid number for a fast sale of a work of art</p> <p>3 which is why it is used in lending.</p> <p>4 That is supported by the fact that</p> <p>5 nearly every lender uses that number. Now,</p> <p>6 notwithstanding that, Art Capital Group used</p> <p>7 20 percent in its offer to the DIA, but that's</p> <p>8 an exceptional circumstance and an exceptional</p> <p>9 offer.</p> <p>10 Q. So beyond your experience with</p> <p>11 Citibank, were there any other studies that you</p> <p>12 relied on for the 50 percent number?</p> <p>13 A. No. I'm saying that there were no</p> <p>14 studies. I'm saying that with my experience</p> <p>15 with all the art -- I have a relationship with</p> <p>16 all of the art lenders in the art industry and</p> <p>17 do business with most of them. I'm saying that</p> <p>18 the practices amongst all of them, and including</p> <p>19 Sotheby's and Christie's, and in developing the</p> <p>20 art lending program at Christie's where we use</p> <p>21 the same practice, it is 50 percent.</p> <p>22 It is 50 percent because that has</p> <p>23 been a long-standing custom, business custom in</p> <p>24 the art world, that that is a value you can</p> <p>25 expect to get from a work of art or a group of</p>	<p style="text-align: right;">Page 248</p> <p>1 Michael Plummer</p> <p>2 50 percent of whatever the value is?</p> <p>3 A. Right.</p> <p>4 Q. So for collateral purposes, if they</p> <p>5 had to have a quick sale then they would assume</p> <p>6 they would only get 50 percent; and that's the</p> <p>7 point you're making, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Then you extend that analysis and</p> <p>10 say so, if there had to be a quick sale of the</p> <p>11 DIA art, you would expect that the most you</p> <p>12 would get is 50 percent of what its value is; is</p> <p>13 that what you're saying?</p> <p>14 A. That is what I'm saying. I'm</p> <p>15 saying that it's based on not just that loan</p> <p>16 criteria, but also the real world experience of</p> <p>17 Acquavella, and also the current offers on the</p> <p>18 table for the DIA collection from Houlihan</p> <p>19 Lokey. I think that they reflect that kind of</p> <p>20 thinking and valuation.</p> <p>21 Q. Why do you assume that there would</p> <p>22 have to be a quick sale of the loan to the DIA</p> <p>23 for its art?</p> <p>24 A. I'm not assuming there has to be.</p> <p>25 I'm assuming that if this route were taken this</p>

<p style="text-align: right;">Page 249</p> <p>1 Michael Plummer</p> <p>2 would be the outcome.</p> <p>3 Q. If there were a quick sale?</p> <p>4 A. If there were a quick sale. Which</p> <p>5 is one of the reasons why I laid this out in</p> <p>6 this manner, so that we could debate which</p> <p>7 scenarios might take place. I'm not assuming</p> <p>8 that one scenario or another would take place,</p> <p>9 that's for the Court to decide, or the DIA to</p> <p>10 decide, or the City of Detroit to decide; I'm</p> <p>11 just describing what would happen in various</p> <p>12 scenarios.</p> <p>13 Q. So then following your logic, if</p> <p>14 there wasn't a quick sale then this factor</p> <p>15 wouldn't apply; if there was a sale over time,</p> <p>16 over a long period of time?</p> <p>17 A. I outlined that scenario later on</p> <p>18 and I do not use a blockage discount in that</p> <p>19 scenario.</p> <p>20 Q. In the Matisse example that you</p> <p>21 provided, that you were referring to earlier, do</p> <p>22 you know what the loss factor was there?</p> <p>23 A. I don't. That data wasn't</p> <p>24 available to me.</p> <p>25 Q. Did you do the analysis?</p>	<p style="text-align: right;">Page 251</p> <p>1 Michael Plummer</p> <p>2 Q. What do you qualify as a short</p> <p>3 period of time?</p> <p>4 A. I don't think I specified here, but</p> <p>5 I would say anything other than an orderly</p> <p>6 liquidation which is given, and the other</p> <p>7 example would be a short period of time.</p> <p>8 Q. I have no idea what that means.</p> <p>9 What would you say is an ordinary liquidation?</p> <p>10 A. Further on I do say what an orderly</p> <p>11 liquidation is, five to eight years is what I</p> <p>12 say.</p> <p>13 Q. So anything other than a five to</p> <p>14 eight year sale would be a short period of time?</p> <p>15 A. Yes. I mean, I hadn't thought</p> <p>16 about three, five years or whatnot; but I would</p> <p>17 say if you sold it in a one to two-year period</p> <p>18 you would be facing a liquidation issue.</p> <p>19 Q. Let me see if I get this right. A</p> <p>20 one to two-year period you clearly would be</p> <p>21 facing a blockage discount, correct?</p> <p>22 A. Or a liquidation discount.</p> <p>23 Q. Or a liquidation discount, but</p> <p>24 maybe beyond that it would depend?</p> <p>25 A. Correct, it would depend.</p>
<p style="text-align: right;">Page 250</p> <p>1 Michael Plummer</p> <p>2 A. I count the numbers from Sotheby's</p> <p>3 report. That data is internal Sotheby's data</p> <p>4 and it's not available.</p> <p>5 Q. Let's turn to the blockage discount</p> <p>6 again, page 27 of your report. You state that a</p> <p>7 blockage discount is similar to an immediate</p> <p>8 liquidation discount, correct?</p> <p>9 A. Correct.</p> <p>10 Q. But results from selling a large</p> <p>11 group of similar items in a short time, correct?</p> <p>12 A. Correct.</p> <p>13 Q. That's what you describe as a</p> <p>14 blockage discount?</p> <p>15 A. Right.</p> <p>16 Q. Is there anything else you would</p> <p>17 describe as a blockage discount?</p> <p>18 MR. IRWIN: Form.</p> <p>19 A. I don't know what you're really</p> <p>20 asking me. I think this is sufficient for the</p> <p>21 purposes here.</p> <p>22 Q. So this assumes that the pieces</p> <p>23 would be sold in a short period of time again,</p> <p>24 correct?</p> <p>25 A. Yes, it is.</p>	<p style="text-align: right;">Page 252</p> <p>1 Michael Plummer</p> <p>2 Q. So if the items were not sold in</p> <p>3 the short period of time, then again this</p> <p>4 blockage discount might not apply, correct?</p> <p>5 A. Correct.</p> <p>6 Q. What is the blockage discount that</p> <p>7 you applied?</p> <p>8 A. In this instance I -- well, I</p> <p>9 really treat it as liquidation discount, which</p> <p>10 is 50 percent.</p> <p>11 Q. So you used that same 50 percent</p> <p>12 number?</p> <p>13 A. Yeah, in the charts I didn't</p> <p>14 differentiate, I only applied one discount, a</p> <p>15 liquidation discount. I didn't differentiate</p> <p>16 between blockage and liquidation.</p> <p>17 Q. Again, do you have any studies to</p> <p>18 support the application of this discount rate</p> <p>19 and the blockage discount?</p> <p>20 A. No. I rely on the data that I just</p> <p>21 gave you on the liquidation discount.</p> <p>22 MR. IRWIN: For clarification</p> <p>23 purposes. When you're asking these questions do</p> <p>24 you mean other than what's stated in the report?</p> <p>25 MR. SOTO: No. He gives me the</p>

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1 Michael Plummer  
2 data in his report, I've looked at that and I'm  
3 asking him if there's anything other than that,  
4 because in his report he doesn't have any  
5 studies, so I'm asking him if there are any  
6 studies.

7 A. I think studies are irrelevant. I  
8 have real-life experience and I've given you the  
9 examples.

10 Q. So you have real-life experience  
11 for a number of the loans?

12 A. No, I have real-life experience for  
13 the number of lenders. It is common policy  
14 amongst all art lenders to use 50 percent. It's  
15 not just my experience with my loans, it's my  
16 experience with knowing what Citibank does, what  
17 JPMorgan does; and having conversations on a  
18 regular basis with Citibank, with JPMorgan, with  
19 Chase and HSBC, with Barclays, with all of these  
20 institutions.

21 Q. Do you think as an expert that that  
22 makes it a more reliable factor, that a lender  
23 which would want to have collateral for their  
24 loan requires a 50 percent valuation of an item  
25 they're taking in as collateral, that somehow

1 Michael Plummer  
2 that's indicative of what the market would be?

3 A. That is their view of a liquidation  
4 value, and having worked through liquidations at  
5 Sotheby's and Christie's that has turned out to  
6 be generally a fair number to use in real life.

7 Q. So that's what I was asking. I'm  
8 asking you for real-life examples; not what a  
9 banker that wants to make a loan might want for  
10 his collateral, but in fact what an immediate  
11 sale brings in.

12 In your experience, how many  
13 immediate sales did you work on at Sotheby's?

14 A. At Sotheby's and Christie's, I  
15 don't remember because that's a long time ago;  
16 but there were a number of them that I either  
17 worked on or reviewed in the prospect of setting  
18 up the program at Christie's, and 50 percent was  
19 a valid number to use.

20 Q. So what you're saying is that in  
21 your experience and this unknown number of  
22 immediate sales, that what you would expect to  
23 get for a valued piece of art is about  
24 50 percent of whatever its value was?

25 A. Correct. I'm working on a

1 Michael Plummer  
2 liquidation issue right now with a client who's  
3 defaulted, and we are expecting 50 percent.

4 Q. Is there any publicly available  
5 data that we can review to determine the  
6 validity of your opinion?

7 A. No, but I would suggest if you  
8 wanted to speak to some of the banks that I've  
9 referenced, they would probably support my  
10 opinion.

11 Q. Right. Again, the banks are  
12 looking for collateral. I'm asking for publicly  
13 available data on sales?

14 A. I think if you would ask some of  
15 the banks about some of their liquidations you  
16 might find data.

17 MR. IRWIN: Outside of the report?  
18 Outside of the example, the Acquavella example  
19 that he gives in the report?

20 MR. SOTO: Right.

21 MR. IRWIN: So other than  
22 Acquavella.

23 MR. SOTO: We've already seen  
24 Acquavella. Acquavella doesn't come to  
25 50 percent by the way, but that's a different

1 Michael Plummer  
2 issue.

3 BY MR. SOTO:

4 Q. Is there any privately available  
5 data that you could point me to that in  
6 immediate sales sellers realize, generally  
7 speaking, 50 percent of the value of their art?

8 A. I don't know what else I can point  
9 you to.

10 Q. You state that the IRS for tax  
11 purposes uses a discount range between  
12 25 percent and 46 percent?

13 A. Yes.

14 Q. That's a pretty wide range,  
15 correct?

16 A. Correct.

17 Q. What is that rate based on?

18 A. It's based on the precedence set in  
19 the case in the estates of David Smith and  
20 Georgia O'Keeffe, as I outlined here.

21 Q. Would you agree with me that the  
22 blockage discount applied for tax purposes is  
23 different than that applied in a sale itself?

24 A. Yes.

25 Q. Looking at page 27 of your opinion.

1 Michael Plummer  
2 We're on paragraph 44 where you talk about  
3 unsold rates. Your report states, "Standard  
4 appraisals and valuations do not take into  
5 account auction unsold rates."

6 Do you see that?

7 A. Yes.

8 Q. Again, when you refer to "unsold  
9 rates" are you referring to what you testified  
10 about earlier, which is items that would have  
11 been offered for sale at an auction, but didn't  
12 actually sell?

13 A. Correct.

14 Q. Then those auctions would be --  
15 those items would be then either given back to  
16 the original owner or offered again at a lower  
17 rate?

18 A. Correct.

19 Q. Is that it?

20 A. Correct.

21 Q. That's the unsold rate. Is it  
22 possible, I mean I see your statement, but I'm  
23 wondering is it even possible to factor this in  
24 advance of a sale?

25 How do you know what's not going to

1 Michael Plummer  
2 market and the unsold rates are part of that  
3 illiquidity problem.

4 So if you have an appraisal that  
5 says that you have \$100 million worth of  
6 property, and you're expecting to get \$100  
7 million worth of cash when \$20 million of that  
8 isn't go to sell, you have a illiquid value of  
9 \$80 million, and that's a big variance.

10 Q. You don't think you're taking the  
11 unsold rate and discount it and factor it in  
12 twice?

13 In other words, what you're saying  
14 is the unsold rate is if you don't take it into  
15 account you're distorting the overall value of  
16 the collection because there's going to be  
17 something that isn't sold.

18 Then you're also saying that in  
19 addition to that, you're overstating the  
20 liquidity and another factor has to be taken in?

21 A. No.

22 Q. It's that same factor?

23 A. It's the same factor.

24 Q. Okay. I just want to make sure.  
25 You state that the average unsold rate is

1 Michael Plummer  
2 sell in advance of a sale?  
3 A. Well, you don't, but you can say  
4 you're going to sell 100 percent of the property  
5 is the point I'm making. So to take the full  
6 valuation and expect that you're going to get  
7 that valuation, and not account for unsold, is  
8 an incorrect way to determine your value,  
9 because you have a rather substantial amount  
10 that's going to remain unsold. I think it's  
11 particularly misleading in a situation like this  
12 where decisions are being made on the ultimate  
13 value.

14 Q. Why is that?

15 A. Well, because I think if you don't  
16 include it, it overstates the value and  
17 liquidity.

18 Q. I see what you mean. Let me see if  
19 I see what you mean. You mean it overstates the  
20 value of the overall collection because there  
21 will be some that won't be sold?

22 A. And it also overstates the  
23 liquidity, and the liquidity is something that  
24 we write and talk about in the market a lot,  
25 because the market is an extremely illiquid

1 Michael Plummer  
2 20 percent, correct?

3 Again, let me ask you, what's the  
4 source of those rates?

5 A. It's in the back, it's an exhibit  
6 in the back. It's the Christie's and Sotheby's  
7 data actually which Wiener used for his own  
8 estimates of the collection.

9 Q. Your chart also lists the average  
10 unsold rates for different sectors, correct?

11 A. Yes.

12 Q. That's because you're taking it  
13 from the Christie's and Sotheby's data for  
14 different sectors?

15 A. Yes.

16 Q. Why did you apply an average unsold  
17 rate of 20 percent when the data that you  
18 supplied you used an average rate of 20 percent?

19 A. I'm sorry?

20 Q. You applied an average unsold rate  
21 of 25 percent for the DIA. Look at page 28,  
22 Table 4?

23 A. What page are you on?

24 Q. Page 28 of your report, it's got a  
25 table. Correct me if I'm reading this wrong.

1 Michael Plummer  
 2 You have your top four sectors listed, correct?  
 3 A. Right.  
 4 Q. Then you have a balance of  
 5 collection 20 percent, 25 percent. So the  
 6 average you used, if I'm understanding it right,  
 7 it says here in D:  
 8 "It is important to note that much  
 9 of this unsold property could and would be sold  
 10 over time, but it is customary business practice  
 11 to devalue a work by 20% of the low estimate  
 12 after it has bought in."  
 13 So you're saying here's going to be  
 14 the average?  
 15 A. Right.  
 16 Q. I thought you were saying the  
 17 average unsold was 20 percent, so you do a  
 18 discount of 20 percent for the unsold. You do a  
 19 discount of the entire valuation because  
 20 20 percent of it is going to be unsold, correct?  
 21 A. I'm not discounting the collection  
 22 here, I'm just showing what the potential of the  
 23 BIs could be. I actually do it differently in  
 24 the present value calculation, where I actually  
 25 do a more thorough analysis where I discount the

1 Michael Plummer  
 2 unsold and then I add them back in a few years  
 3 later after -- at a 20 percent valuation.  
 4 So that's more reflective of my  
 5 thinking on this. This was just an illustrative  
 6 of the potential for unsold in different  
 7 categories.  
 8 Q. So this is just illustrating the  
 9 potential into categories, but when you did the  
 10 calculation you did use a 20 percent discount  
 11 value?  
 12 A. I did use the 20 percent discount  
 13 value.  
 14 Q. That's what I'm trying to get at.  
 15 Page 28, paragraph 45. In your report you state  
 16 that:  
 17 "The size of a liquidation of the  
 18 DIA collection would be beyond Christie's and  
 19 Sotheby's guarantee capacities."  
 20 What's the basis of that  
 21 conclusion?  
 22 A. The basis of that is the Sotheby's  
 23 financial statement with their loan limitations,  
 24 which I dictate below. I also, having been  
 25 inside Christie's and knowing their balance

1 Michael Plummer  
 2 sheet, and knowing their balance sheet  
 3 limitations, I know what they have to spend on  
 4 guarantees and what their limitations are.  
 5 Q. So it's your assumption then that  
 6 if they wanted to participate in something like  
 7 this, they couldn't get any other financing to  
 8 be able to participate in it?  
 9 A. I think that this would be a very  
 10 large level of risk, and in the past when  
 11 Sotheby's and Christie's were presented with  
 12 collections of this size they have chosen not to  
 13 go out and get a financing partner for it. So  
 14 based on past experience I would say so.  
 15 Q. But you don't know if that's a set  
 16 policy, correct?  
 17 A. I don't know if it's a set policy.  
 18 Q. It's been a while since you worked  
 19 for either Sotheby's or Christie's?  
 20 A. It's been a while since I worked  
 21 for either Sotheby's or Christie's.  
 22 Q. You state that on page 29,  
 23 paragraph 46 --  
 24 A. We're assuming that Sotheby's and  
 25 Christie's would be wanting to sell them in the

1 Michael Plummer  
 2 first place.  
 3 Q. I'm just asking the questions, I'm  
 4 not assuming what they would do. Do you?  
 5 A. No.  
 6 Q. Paragraph 46, page 29. You state  
 7 in your report that the auction houses may,  
 8 "refuse to sell due to the controversy  
 9 surrounding a disposition and potential damage  
 10 to their brand and relationships with the  
 11 broader Museum community"?  
 12 A. Yes.  
 13 Q. You testified about this earlier?  
 14 A. Correct.  
 15 Q. Do you have anything more to add to  
 16 that testimony that you recollect, now that  
 17 you're looking at your opinion here?  
 18 A. No, I think I covered this, I  
 19 covered this earlier.  
 20 Q. I didn't ask you earlier. Did you  
 21 speak to anyone at Christie's about this  
 22 opinion?  
 23 A. Someone at Christie's expressed  
 24 their opinion to me in a social setting.  
 25 Q. Off the record?

1 Michael Plummer  
 2 A. Off the record.  
 3 Q. And you couldn't give me their name  
 4 because you promised not to?  
 5 A. Yes.  
 6 Q. What about Sotheby's?  
 7 A. I did not have a conversation with  
 8 Sotheby's about it.  
 9 Q. Christie's did complete and submit  
 10 their report that you relied on in your opinion,  
 11 correct?  
 12 A. Um-hum.  
 13 Q. So despite what you described  
 14 earlier as bad press they didn't back out of it,  
 15 they finished the work and they got it done,  
 16 correct?  
 17 A. Correct.  
 18 Q. You also note that the impact of  
 19 not selling through Sotheby's or Christie's  
 20 would reduce the sale value by 20 to 40 percent?  
 21 A. Right.  
 22 Q. Other than your subjective belief  
 23 that it would reduce it by 20 to 40 percent not  
 24 to sell it through Sotheby's and Christie's,  
 25 what is the basis of this discount factor?

1 Michael Plummer  
 2 MR. IRWIN: Form. Go ahead.  
 3 A. The basis is I have samples of  
 4 others earlier in the report where the valuation  
 5 ranges in works of art by various artists are  
 6 off by a larger percentage than that. So I felt  
 7 this was a conservative approach based on those  
 8 examples I gave, and my own personal experience  
 9 of buying in the marketplace on behalf of the  
 10 buyers and selling.  
 11 Q. The examples you're referring to  
 12 are the examples in the report?  
 13 A. In the report.  
 14 Q. Any others?  
 15 A. No.  
 16 Q. Given the volume of the artworks at  
 17 the DIA, wouldn't it be wise to sell that many  
 18 artworks to a variety of sources, including  
 19 maybe a variety of auction houses?  
 20 A. You could do it, I just believe  
 21 that if you sell other than at Sotheby's and  
 22 Christie's you won't get the prices.  
 23 Q. Let me ask you to turn to page 31.  
 24 We're just flying through this thing, paragraph  
 25 49. You state that:

1 Michael Plummer  
 2 "For a collection of the magnitude  
 3 of the DIA's, maximizing art asset value  
 4 requires selling over a minimum of five to eight  
 5 years." Correct?  
 6 A. Um-hum.  
 7 Q. That's what you testified about  
 8 just a moment ago, correct?  
 9 A. Correct.  
 10 Q. What is that estimated time period  
 11 based on?  
 12 A. Well, I mentioned much earlier in  
 13 the testimony that that is essentially the plan  
 14 of almost any art investment structure out  
 15 there, that it would be a six to eight year  
 16 period. That's just a commonly held belief and  
 17 practice that the market can only absorb so much  
 18 material at a time, and if you're going to  
 19 maximize value you need to have a lengthy, a  
 20 long enough ramp time so that you can pick and  
 21 choose your seasons and your periods and put the  
 22 property in the right auctions.  
 23 Q. I'm glad you clarified that,  
 24 because I thought when you were testifying  
 25 earlier, that what you were saying is if you

1 Michael Plummer  
 2 were going to set up an investment fund you have  
 3 to hold the art for five to eight years before  
 4 you begin the process of selling, so that it has  
 5 some ability to increase in value; but you were  
 6 saying something different now?  
 7 A. No, I'm not. I'm saying the same  
 8 thing. I'm saying that you would hold the art  
 9 for a couple -- you would sell the art from a  
 10 fund over a five to eight year period as well,  
 11 so I'm saying it's consistent.  
 12 Q. You don't have to hold it for a  
 13 five to eight year period then begin to sell it,  
 14 just sell it over a five to eight year period?  
 15 A. Sell it over a five to eight year  
 16 period.  
 17 Q. Thank you. Do you have any  
 18 reliable sources or studies to support this?  
 19 MR. IRWIN: Form.  
 20 A. I do not have anything other than  
 21 common art investment fund practice. However, I  
 22 would say if you wanted to look at the offering  
 23 documents of most of the art investment funds  
 24 out there you would find that strategy  
 25 articulated.

1 Michael Plummer  
2 Q. Paragraph 32 -- page 32, paragraph  
3 50. Looking at number C. You say, "Based on  
4 other museum deaccessions to pay debts." Do you  
5 see that?

6 A. Yes.

7 Q. What other art museums do you know  
8 that have had deaccessions to pay debts?

9 A. The de Valera Museum.

10 Q. Any others?

11 A. Well, the Fisk was one that was  
12 attempted but blocked, and then it went through,  
13 but under the agreement of the Attorney General.

14 Q. So you have Delaware and Fisk in  
15 Tennessee, correct?

16 A. Yes.

17 Q. Anywhere else?

18 A. Then there is also the attempted  
19 sale of the Rose Museum by Brandeis, but that  
20 sort of got stopped dead in its tracks. It  
21 didn't even make it to the point of sale because  
22 of the public outcry.

23 Q. The rose Museum by Brandeis  
24 University?

25 A. Yes.

1 Michael Plummer

2 Q. Any others?

3 A. Those are the only ones that I  
4 report and those are the only ones that I am  
5 aware of at the moment.

6 Q. You say, "Court challenges are  
7 likely from the Michigan Attorney General." Do  
8 you see that?

9 A. Um-hum.

10 Q. What is the basis of that? Have  
11 you spoken to somebody at the Michigan Attorney  
12 General's office?

13 A. No. Based on what has happened to  
14 various sales in New York and other places, I  
15 would expect that the Attorney General and also  
16 the Attorney General has come out, yes, the  
17 Attorney General has come out as a matter of  
18 record and says that he opposes the sale. So it  
19 would be logical to assume that he would bring  
20 action as Attorney General, as other states  
21 have.

22 Q. When you say the Attorney General  
23 has come out and said he opposes the sale, are  
24 you basing that on the Attorney General's  
25 opinion that the art is held in trust?

1 Michael Plummer

2 A. Yes.

3 Q. Is there anything else that you're  
4 basing it on?

5 A. And basing it on the activities of  
6 the New York Attorney General of various sales,  
7 and the Attorney General of the State of  
8 Tennessee.

9 Q. So assuming the situations in  
10 Tennessee and New York are not the same because  
11 they weren't dealing with a city-owned museum, a  
12 publicly-owned museum; do you have any other  
13 reason to think that a Michigan State Attorney  
14 General would oppose the sale?

15 MR. IRWIN: Form.

16 A. That's not entirely true because  
17 the Fisk example and the New York Attorney  
18 General issues on other instances pertained to  
19 the sale of property that was gifted; and we're  
20 not just talking about the City of Detroit  
21 purchase property, we're talking about gifted  
22 property that was bequested and has  
23 restrictions.

24 So it is not an assumption, or  
25 illogical to assume, that the Attorney General

1 Michael Plummer

2 of Michigan would step in and block the sale of  
3 property that had been gifted to as a bequest or  
4 whatever.

5 Q. Did you or anyone else at Artvest  
6 do an analysis of the legal structure that  
7 existed in Tennessee with respect to the Fisk  
8 Museum?

9 A. That was beyond the scope of our  
10 job.

11 Q. The answer is no then, correct?

12 A. No.

13 Q. Did you or anyone else at Artvest  
14 do a legal analysis of the structure of the  
15 legal position that was involved in the New York  
16 example that you are giving?

17 A. No.

18 Q. Did you or anyone else at Artvest  
19 do an analysis of the legal structure involved  
20 in the Delaware Museum?

21 A. No, we did not.

22 Q. Did you retain anyone else to do  
23 it?

24 A. We did not. May we take a break?

25 MR. SOTO: Absolutely.

1 Michael Plummer  
 2 THE VIDEOGRAPHER: The time is  
 3 4:26 p.m., and we're going off the record.  
 4 (Short break taken)  
 5 THE VIDEOGRAPHER: The time is  
 6 4:40 p.m., and we're back on the record.  
 7 BY MR. SOTO:  
 8 Q. Looking at page 32, paragraph 50 C.  
 9 Beyond what you've testified about already  
 10 regarding why you think litigation challenges  
 11 are possible, and what you have in your report;  
 12 beyond those two things, is there anything else  
 13 that you rely on to support that opinion?  
 14 A. No.  
 15 Q. So in your statement such as those  
 16 on page 39 of your report where you say, make  
 17 sure I'm quoting it right, "Heirs of former  
 18 donors as well as current donors are likely  
 19 to" --  
 20 MR. IRWIN: Are you in the middle  
 21 of the page?  
 22 MR. SOTO: Yes. I'm trying to find  
 23 it myself.  
 24 A. What page are you on?  
 25 MR. IRWIN: He's on 39.

1 Michael Plummer  
 2 MR. SOTO: I thought I was on 39.  
 3 MR. IRWIN: You are, you were a  
 4 third of the way down.  
 5 MR. SOTO: Paragraph C.  
 6 Q. Where you say:  
 7 "Heirs of former donors, as well as  
 8 current donors, many still prominent leaders in  
 9 the Detroit community, and the DIA corporation  
 10 itself, are likely to pursue every legal option  
 11 necessary to stop or delay the sale of any of  
 12 the art potentially, leading to years of  
 13 litigation."  
 14 Do you see that?  
 15 A. Um-hum.  
 16 Q. You didn't talk to anyone else  
 17 about that other than -- did you talk to anybody  
 18 about it?  
 19 A. No.  
 20 Q. You didn't, okay. Looking at your  
 21 table. Is it your assumption that any  
 22 litigation would be a five-year litigation?  
 23 A. Based on the Fisk, yes.  
 24 Q. So you're basing it on the Fisk  
 25 litigation?

1 Michael Plummer  
 2 A. Yes.  
 3 Q. Again, you didn't do any analysis  
 4 of the Fisk litigation?  
 5 A. No.  
 6 Q. You don't know what was involved  
 7 this?  
 8 A. No.  
 9 Q. You know it didn't involve a  
 10 City-owned museum, correct?  
 11 A. I know it did involve the intention  
 12 of the bequester, and that was at the heart of  
 13 the matter.  
 14 Q. Did you do an analysis of the  
 15 intentions? I think I asked you about this  
 16 earlier, but if I didn't I should ask it now,  
 17 and if I did let me know.  
 18 Did you do an analysis of any of  
 19 the restrictions that might exist on the  
 20 transfer of any of the art that's now part of  
 21 the DIA collection?  
 22 A. I think you did ask it but I'll  
 23 answer it again, I did not.  
 24 Q. Thanks for being patient with me.  
 25 In paragraph -- well it's page 36 of your

1 Michael Plummer  
 2 report, Table 6.  
 3 Here you apply the litigation  
 4 discount factor and reduce the value by an  
 5 additional 2 million, I think it's 2,539,108, do  
 6 you see that?  
 7 A. Right.  
 8 Q. Where did you come up with this  
 9 figure?  
 10 A. It's in the table in the back, the  
 11 calculation is either 70 or 71. I hopes this  
 12 matches the right table with the right  
 13 calculation. So this would match to page 70.  
 14 Q. So page 70 is Exhibit F, Table 8?  
 15 A. Right.  
 16 Q. The present value of orderly  
 17 liquidation?  
 18 A. Right.  
 19 Q. Where does the number come from?  
 20 A. Which number are you asking where  
 21 does that number come from?  
 22 Q. I was asking earlier where did you  
 23 come up with the 2,539,108 as a count for  
 24 litigation?  
 25 A. That is the net effects of these

<p style="text-align: right;">Page 277</p> <p>1 Michael Plummer</p> <p>2 column-by-column calculations of no income until</p> <p>3 year six, only the expense of carrying the</p> <p>4 collection. Then starting in year seven you</p> <p>5 would sell 20 percent of the collection; year</p> <p>6 eight, 20 percent; year 9, 20 percent; 15 in</p> <p>7 year 10; 15 in year 11.</p> <p>8 Taking out -- adding back the</p> <p>9 unsold property we offer three years later, the</p> <p>10 administrative expenses, and then bringing it</p> <p>11 back to a discounted net present value.</p> <p>12 Q. So this table reflects under</p> <p>13 scenario B, litigation Fisk, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Under less average unsold loss</p> <p>16 factor?</p> <p>17 A. Yes.</p> <p>18 Q. You reflect a 26.20 percent loss</p> <p>19 factor, correct?</p> <p>20 A. Right. Then it's added back.</p> <p>21 Q. Where is it added back?</p> <p>22 A. It's added back in year 10 and year</p> <p>23 11.</p> <p>24 Q. So this is the add-back re-offered</p> <p>25 unsold property?</p>	<p style="text-align: right;">Page 279</p> <p>1 Michael Plummer</p> <p>2 sale after a prolonged litigation (the most</p> <p>3 likely outcome, Scenario D) to \$1.8 billion for</p> <p>4 the present value of an orderly liquidation</p> <p>5 without litigation, a less likely outcome." Do</p> <p>6 you see that?</p> <p>7 A. Yes.</p> <p>8 Q. In paragraph 56 you state that:</p> <p>9 "Using the low estimate value of</p> <p>10 about \$2.7 billion, and assuming all of the</p> <p>11 worst factors, including issues with extended</p> <p>12 litigation and a discount for unsold items, the</p> <p>13 value of the collection would sell for between</p> <p>14 0.9 billion to 1.4 billion," correct?</p> <p>15 A. Correct.</p> <p>16 Q. And your analysis is documented on</p> <p>17 Table 7, well I guess Table 6 and 7 on pages 36</p> <p>18 and 37, correct?</p> <p>19 A. Correct.</p> <p>20 Q. You only apply the discount factors</p> <p>21 to the low and mid estimates, correct?</p> <p>22 A. Correct.</p> <p>23 Q. Why didn't you apply them to the</p> <p>24 high estimate?</p> <p>25 A. Because I don't think that the high</p>
<p style="text-align: right;">Page 278</p> <p>1 Michael Plummer</p> <p>2 A. This table is cut off because this</p> <p>3 goes out for another couple of years, it's just</p> <p>4 cut off here.</p> <p>5 Q. So it goes beyond year 11?</p> <p>6 A. Yeah, it must go on to year 12. I</p> <p>7 don't remember because I don't have it front of</p> <p>8 me.</p> <p>9 Q. Take a look and see if you're</p> <p>10 looking at the same thing I'm looking at?</p> <p>11 A. Yeah. I'm doing this from memory,</p> <p>12 but I think it might go beyond year 11.</p> <p>13 Q. The one I got in the mail didn't.</p> <p>14 So if you have one that does that might be</p> <p>15 helpful?</p> <p>16 A. I could be wrong about this, I'm</p> <p>17 doing this from memory.</p> <p>18 Q. Remember, there's no closed-book</p> <p>19 test here, you can look at everything. So now</p> <p>20 looking at application of discount fees, page</p> <p>21 37, paragraph 56. You state:</p> <p>22 "I conclude that the range of</p> <p>23 values the DIA collection will sell for, using</p> <p>24 the mid estimate value, values, would be between</p> <p>25 1.1 billion for the present value of an orderly</p>	<p style="text-align: right;">Page 280</p> <p>1 Michael Plummer</p> <p>2 estimate is relevant to this case.</p> <p>3 Q. So you created a high estimate</p> <p>4 though, didn't you?</p> <p>5 A. I did create a high estimate, yes.</p> <p>6 Q. You say it's not relevant for what</p> <p>7 reason?</p> <p>8 A. Because of the fact of the areas</p> <p>9 where the property is in, the controversy around</p> <p>10 the collection, disagreeing with Wiener on the</p> <p>11 ability to market it and promote it. The high</p> <p>12 estimate really is something that is reserved</p> <p>13 for things that are really sort of untainted,</p> <p>14 that is just stellar property in a hot area, and</p> <p>15 a lot of the DIA property is not in a hot area</p> <p>16 either. So for all of the reasons that I've</p> <p>17 outlined previously.</p> <p>18 Q. Let me see if your methodology is</p> <p>19 what I think it is. You first said you did a</p> <p>20 valuation, correct?</p> <p>21 A. Um-hum.</p> <p>22 Q. And then you said separate and</p> <p>23 apart from that valuation you applied factors to</p> <p>24 what you valued that appraisers might not apply.</p> <p>25 You gave all specific areas of them and we</p>

70 (Pages 277 to 280)

<p style="text-align: right;">Page 281</p> <p>1 Michael Plummer 2 testified at length about them today, or you 3 did, correct? 4 A. Yes. 5 Q. So even though you did an 6 evaluation that had a low range, a mid range and 7 a high range, you didn't apply any of those 8 seven factors to the high range, did you? 9 A. No. 10 Q. So in addition to taking discounts 11 for the seven factors that you say you took into 12 account that maybe an appraisal wouldn't, you 13 were also adding another factor, which is your 14 subjective view that gee, this high rate just 15 doesn't apply here? 16 MR. IRWIN: Form. 17 Q. This high evaluation just shouldn't 18 even be applied here, correct? 19 A. I said in this particular instance 20 I didn't think that it applied. 21 Q. So why -- how did you set the high 22 valuation to begin with? What did you do to set 23 the high valuation to begin with? You looked at 24 comparables, correct? 25 A. Right.</p>	<p style="text-align: right;">Page 283</p> <p>1 Michael Plummer 2 MR. IRWIN: Form. 3 A. The middle estimate is calculated 4 based off of a high estimate. If I were to use 5 the high estimate I would be saying that of the 6 56,000 items, or whatever number it is, they 7 would all be selling for the high estimate. 8 That the average selling price of the entire 9 collection would be selling at the high 10 estimate. 11 What I've done is I've used the mid 12 estimate, because that assumes that you will be 13 getting halfway between the low and the high. 14 So I'm accounting for the high by a mid 15 estimate, that takes into account the high and 16 the low. So the idea that the entire collection 17 would sell for at the high level is to me 18 inconceivable. 19 Q. Let me see if I'm understanding 20 that. You did a high estimate and a low 21 estimate? 22 A. Right. 23 Q. And the mid is just literally the 24 middle range? 25 A. Correct.</p>
<p style="text-align: right;">Page 282</p> <p>1 Michael Plummer 2 Q. You looked at all the market data 3 that was publicly available, correct? 4 A. Right. 5 Q. You looked at the indices that you 6 paid for from some other not publicly available 7 sources, correct? 8 A. Right. 9 Q. You talked to people that you knew 10 within Sotheby's and Christie's and others about 11 sales that others might not even know about, 12 correct? 13 A. Right. 14 Q. And you contacted individuals in 15 the industry that you have contact with on a 16 daily basis because of your position in the 17 industry, and because of your position as an art 18 fair owner and participant that other people 19 don't, correct? 20 A. Right. 21 Q. You took all that information into 22 account in deciding I think a low estimate would 23 be this, I think a high estimate would be this, 24 and I think a middle estimate would be this, 25 correct?</p>	<p style="text-align: right;">Page 284</p> <p>1 Michael Plummer 2 Q. So what you're doing in your 3 analysis, if I'm understanding it now, I may be, 4 is saying look, in calculating what discounts 5 I'm going to take after I do my evaluations, 6 I'll take the mid range valuation because in 7 your mind, having put together the valuations, 8 that's the most likely one. Is that correct to 9 say? 10 A. I'd say it is -- it and the low 11 estimate are likely scenarios. I do not think 12 that the high estimate is the likely scenario 13 because that presupposes that everything would 14 come up a high estimate, or higher. 15 Q. So your charts show the discounts 16 off the low estimates and the discounts off the 17 middle estimates, but they don't show the 18 discounts off the high estimates? 19 A. Correct. 20 Q. So with respect to your ultimate 21 conclusion, you've simply eradicated the high 22 estimate for purposes of coming to your 23 conclusion. 24 You have a conclusion as to the low 25 estimate with discounts and you have a</p>

71 (Pages 281 to 284)



<p style="text-align: right;">Page 285</p> <p>1 Michael Plummer</p> <p>2 conclusion as to the mid range with discounts?</p> <p>3 MR. IRWIN: Form.</p> <p>4 A. I don't think that's an accurate</p> <p>5 portrayal because the mid estimate is factored</p> <p>6 by using the high estimate. All I am saying is</p> <p>7 I don't think it is possible to sell everything</p> <p>8 in this collection at an average value of the</p> <p>9 high estimate.</p> <p>10 Q. And you think that it's more likely</p> <p>11 that everything will sell at the low estimate?</p> <p>12 A. I think that it is possible that it</p> <p>13 could sell at the low estimate. Oftentimes</p> <p>14 things sell below the low estimate.</p> <p>15 Q. Wouldn't you agree with me that if</p> <p>16 you took your discounts off the high estimate</p> <p>17 your conclusion would be a higher sale value,</p> <p>18 correct?</p> <p>19 MR. IRWIN: Form.</p> <p>20 A. If I took my conclusions off of the</p> <p>21 high estimate?</p> <p>22 Q. Your discounts?</p> <p>23 A. My discounts, yes, it would be a</p> <p>24 higher valuation.</p> <p>25 Q. And you didn't do that?</p>	<p style="text-align: right;">Page 287</p> <p>1 Michael Plummer</p> <p>2 A. My analysis is based on my business</p> <p>3 practices and the way I conduct my business.</p> <p>4 Q. So when you did your valuations and</p> <p>5 you did your comparables, and you did what all</p> <p>6 that information was and you got information on</p> <p>7 high valued estimates, didn't that take some of</p> <p>8 the market factors into account for those</p> <p>9 estimates?</p> <p>10 A. I don't understand your question.</p> <p>11 Q. So when you do comparables you come</p> <p>12 up with some comparables that are higher and</p> <p>13 some that are lower, correct?</p> <p>14 A. Right.</p> <p>15 Q. That's how you get the high</p> <p>16 estimates and the low estimates, correct?</p> <p>17 A. Right.</p> <p>18 Q. That takes into account market data</p> <p>19 and market information, right?</p> <p>20 A. Right.</p> <p>21 Q. So there must be some market data</p> <p>22 that supports your high estimate, correct?</p> <p>23 A. I'm not arguing that a high</p> <p>24 estimate for a work is wrong. I'm arguing that</p> <p>25 making an assumption that the entirety of the</p>
<p style="text-align: right;">Page 286</p> <p>1 Michael Plummer</p> <p>2 A. I did not do that.</p> <p>3 Q. You didn't want to do that?</p> <p>4 MR. IRWIN: Form.</p> <p>5 MR. O'REILLY: Form.</p> <p>6 A. I didn't think it was relevant to</p> <p>7 do so.</p> <p>8 Q. But it was relevant to value them,</p> <p>9 as you suggested in your expert report you</p> <p>10 valued them, correct?</p> <p>11 It was relevant to get all that</p> <p>12 information that we just went through, correct?</p> <p>13 A. Correct.</p> <p>14 Q. Based on all of that information</p> <p>15 that was relevant to you, you do have a high</p> <p>16 range, correct?</p> <p>17 A. I do have a high range, yes. I</p> <p>18 would also add that in the art industry, it is</p> <p>19 generally common practice to base most decisions</p> <p>20 off of low estimates; not mid or not high, but</p> <p>21 low.</p> <p>22 Q. What you're doing here is simply</p> <p>23 basing your analysis on the mid and low.</p> <p>24 There's no business decision here, it's just</p> <p>25 your analysis, correct?</p>	<p style="text-align: right;">Page 288</p> <p>1 Michael Plummer</p> <p>2 collection would sell at the high estimate is</p> <p>3 not a solid premise for doing this analysis.</p> <p>4 Q. You don't have to do that to show</p> <p>5 the actual discounts off the high estimate. You</p> <p>6 can just have them there, then you can come to</p> <p>7 whatever conclusion you think is appropriate to</p> <p>8 apply to that.</p> <p>9 You could, in fact, have submitted</p> <p>10 a report to the Court that allowed the Court to</p> <p>11 say I see what the discounts are on the high</p> <p>12 estimate, I see what the discounts are on the</p> <p>13 mid-estimate, and I see what the discounts are</p> <p>14 on the low estimate. I'll say let's assume that</p> <p>15 only half of it sells for the high and only half</p> <p>16 of it sells for the low.</p> <p>17 But you didn't do that in your</p> <p>18 report. You didn't give the estimates for the</p> <p>19 high one, did you?</p> <p>20 MR. O'REILLY: Form.</p> <p>21 A. No, I do not.</p> <p>22 Q. So your calculation makes several</p> <p>23 conclusions, doesn't it? Let's look back on</p> <p>24 page 31.</p> <p>25 First of all, on page 31, paragraph</p>

72 (Pages 285 to 288)

1 Michael Plummer  
2 49 C, right, you assume that it would take 18  
3 months to two years to adequately catalog the  
4 collection in the first place, correct?

5 A. Yes.

6 Q. What's the basis of that  
7 assumption?

8 A. Based on the preparations that went  
9 into Albright-Knox and other sales. That you  
10 have such a quantity of property that in order  
11 to do the proper amount of research on its  
12 salability, and how you want to sell it and plan  
13 for the sale of it, plan for the marketing of  
14 it, all of that would take an extended period of  
15 time.

16 Q. Are you aware of the fact that the  
17 DIA has had on other occasions other people look  
18 at its collection, that may indeed have done  
19 some of the cataloguing that you're talking  
20 about here?

21 A. I know they've done the  
22 cataloguing, that's not the same as the  
23 cataloguing for sale. The cataloguing that's  
24 already done would be used, but whoever was  
25 selling it would want to evaluate it from the

1 Michael Plummer  
2 lens of selling it, and look for various  
3 information that may not be included in the  
4 museum cataloguing.

5 Q. So is it your --

6 A. And additional scholarship.

7 Q. Sorry, I didn't mean to interrupt.

8 A. No, just an additional scholarship.

9 Q. So is it your assumption then that  
10 the DIA has not done prior cataloging for sale?

11 A. They haven't done sale cataloging  
12 which is different.

13 Q. That's your assumption, correct?

14 A. No, it's my -- I've seen some of  
15 their cataloguing and I don't think it's the  
16 same as cataloguing it for sale.

17 Q. Did you speak to anyone at the DIA  
18 about whether or not they had done other  
19 cataloguing for sale prior to this?

20 A. No, I have not talked to them about  
21 that.

22 Q. So you don't know that for a fact,  
23 you are assuming that?

24 MR. IRWIN: Form.

25 A. I am assuming that, and I actually

1 Michael Plummer

2 say that it was an assumption.

3 Q. That assumption is based on, again,  
4 your review of whatever materials you had,  
5 correct?

6 A. Correct.

7 Q. Because you haven't spoken to  
8 anyone at the DIA, correct?

9 A. Correct.

10 Q. Your next one is you assume that  
11 the sales would take place through a public  
12 rather than private auction?

13 A. Correct.

14 Q. What's the basis of that  
15 assumption?

16 A. As I outlined elsewhere in the  
17 report that most legal, court related, other  
18 transactions or transparencies required are more  
19 often than not done by auction, because if you  
20 sell things privately there is a degree of  
21 confidentiality involved that can allow for a  
22 conflict of interest or a lack of transparency  
23 on value.

24 If you sell something privately  
25 your client is buying it privately because they

1 Michael Plummer

2 don't want the price disclosed. It's hard for  
3 me to imagine that you could sell works from the  
4 DIA privately, without disclosing the prices,  
5 how that could be accomplished with City-owned  
6 property.

7 Q. You assume an annual expense of 6  
8 million related to the storing and the  
9 administering of the art collection, correct?

10 A. Yes.

11 Q. What's the basis of that  
12 assumption?

13 A. That's my assumption based on the  
14 size of the museum, the size of the collection,  
15 insurance costs, heat, humidity control, all of  
16 that; and it decreases over time as the  
17 collection is sold off.

18 Q. Did you speak with anybody who's  
19 currently involved in the storing and  
20 administering of the art collection as to what  
21 it's costing them to do it now?

22 A. I did not, no.

23 Q. Did you look at the publicly  
24 available information on what those storage  
25 costs are now?

<p style="text-align: right;">Page 293</p> <p>1 Michael Plummer</p> <p>2 A. I did not.</p> <p>3 Q. You assume a discount rate of</p> <p>4 12 percent based on the volatility of the</p> <p>5 market, correct?</p> <p>6 A. Correct.</p> <p>7 Q. What's the basis of that</p> <p>8 assumption?</p> <p>9 A. Going back to the art investment</p> <p>10 topic and the art investment funds, generally</p> <p>11 the 12 percent or higher number is expected by</p> <p>12 investors in the art market to compensate for</p> <p>13 the volatility of the market.</p> <p>14 Q. You reviewed the Barth report</p> <p>15 previously, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Did you dispute what she suggests</p> <p>18 the closer percentage rate would be here for the</p> <p>19 discount rate based on the volatility?</p> <p>20 A. I completely dispute it. I don't</p> <p>21 think she has sufficient experience to weigh in</p> <p>22 on that matter.</p> <p>23 Q. Turn back to page 36 of your</p> <p>24 report.</p> <p>25 A. Okay. I would like to take a quick</p>	<p style="text-align: right;">Page 295</p> <p>1 Michael Plummer</p> <p>2 Q. On page 31, which contains your</p> <p>3 present value calculation, if you go back to</p> <p>4 that and take a look at it.</p> <p>5 I don't see where it includes -- I</p> <p>6 don't see where your present value calculation</p> <p>7 mentions the unsold rates. I'm trying to figure</p> <p>8 out what unsold rates apply?</p> <p>9 MR. IRWIN: Form.</p> <p>10 MR. O'REILLY: Objection to the</p> <p>11 form.</p> <p>12 A. I'm confused with what you're</p> <p>13 asking me.</p> <p>14 Q. I'll start again. The footnote</p> <p>15 says, "Unsold rates are included in the present</p> <p>16 value calculation"?</p> <p>17 A. Right.</p> <p>18 Q. Turn to page 31. I'm trying to</p> <p>19 understand it.</p> <p>20 A. Okay. Page 31.</p> <p>21 Q. It contains your present value</p> <p>22 calculation, correct?</p> <p>23 A. Right.</p> <p>24 MR. IRWIN: At page 31,</p> <p>25 assumptions.</p>
<p style="text-align: right;">Page 294</p> <p>1 Michael Plummer</p> <p>2 break.</p> <p>3 MR. SOTO: Sure.</p> <p>4 THE VIDEOGRAPHER: The time is</p> <p>5 5:01 p.m., and we're going off the record.</p> <p>6 (Short break taken)</p> <p>7 THE VIDEOGRAPHER: This begins</p> <p>8 media unit number 5, the time is 5:09 p.m., and</p> <p>9 we're back on the record.</p> <p>10 BY MR. SOTO:</p> <p>11 A. In your one of your last lines of</p> <p>12 questioning I had forgotten and misspoke. The</p> <p>13 \$6 million number was a number that I had gotten</p> <p>14 from Rich that was done at the DIA, the cost of</p> <p>15 holding the collection and storing it.</p> <p>16 Q. So \$6 million was indeed something</p> <p>17 that the DIA has estimated that would cost?</p> <p>18 A. Yes. I made a mistake.</p> <p>19 Q. That's perfectly appropriate to</p> <p>20 correct. I think we were going to page 36. Do</p> <p>21 you see that, Footnote 1?</p> <p>22 A. Um-hum.</p> <p>23 Q. It says, "Unsold rates included in</p> <p>24 present value calculation"?</p> <p>25 A. Um-hum.</p>	<p style="text-align: right;">Page 296</p> <p>1 Michael Plummer</p> <p>2 A. 49 C?</p> <p>3 Q. No, I'm beyond the assumptions.</p> <p>4 Maybe I'm using the wrong page.</p> <p>5 A. If you're looking for the present</p> <p>6 value charts they're in the back. It's 70 or</p> <p>7 71.</p> <p>8 Q. 70 is the one you used before and</p> <p>9 you have present value. It should be 71 I think</p> <p>10 for this one. So again, it's Table 9, page 71</p> <p>11 of 72. I see a present value of 1 million?</p> <p>12 A. 366?</p> <p>13 Q. Yes.</p> <p>14 A. And 850.</p> <p>15 Q. At the bottom. So where is the --</p> <p>16 I guess it's the?</p> <p>17 A. The unsold rate is the deduction</p> <p>18 144, 144, 144 and then the add-back is 115,740,</p> <p>19 115,740, so they're two different rows.</p> <p>20 Q. I see. So the deductions are the</p> <p>21 ones over here on the right, 7, 8, 9 and 10?</p> <p>22 A. Right.</p> <p>23 Q. And then the add-back is 010?</p> <p>24 A. Right.</p> <p>25 Q. So that explains that. Thank you.</p>

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1 Michael Plummer  
 2 Going back to your assumptions on page 31.  
 3 Your calculations assume a discount  
 4 rate of 20 percent for not selling through  
 5 Christie's and Sotheby's, correct?  
 6 A. Um-hum.  
 7 Q. You testified about that earlier,  
 8 correct?  
 9 A. Um-hum.  
 10 Q. Then your calculations also assume  
 11 a discount rate of 50 percent for the market  
 12 disfavor of the American sector, correct?  
 13 MR. IRWIN: Are we supposed to be  
 14 following somewhere in the document?  
 15 MR. SOTO: Well yes, I was going  
 16 through the assumptions that start on page 31,  
 17 then I added to that the other assumptions that  
 18 he testified about earlier.  
 19 MR. IRWIN: The impression was that  
 20 we were following along on the page and it's not  
 21 tracking.  
 22 MR. SOTO: I'm sorry. Let me start  
 23 again.  
 24 Q. So in addition to the assumptions  
 25 that you list here in your chart, which is C:

1 Michael Plummer  
 2 "I use the following assumptions in  
 3 calculating present value discount." You used  
 4 those, correct?  
 5 A. Um-hum.  
 6 Q. Beyond those present value discount  
 7 assumptions you also apply other discounts,  
 8 correct?  
 9 One that you testified about at  
 10 length was the fact that look, there's a  
 11 disfavor for the American sector, correct?  
 12 A. I do not apply that in the present  
 13 value scenario.  
 14 Q. You just applied that in general?  
 15 A. No. I applied that only in  
 16 scenario B, which is sort of just a straight  
 17 illustrative, illustration of application of  
 18 things; but I do not apply that in scenario C or  
 19 D.  
 20 Q. In determining the present value  
 21 you did not apply the other discounts?  
 22 A. No.  
 23 Q. So you did not apply the discount  
 24 for the Sotheby's or Christie's --  
 25 A. No.

1 Michael Plummer  
 2 Q. You did not apply the discount for  
 3 the American sector disfavor?  
 4 A. Correct.  
 5 Q. You did not apply the discount for  
 6 the market crash?  
 7 A. Correct.  
 8 Q. Are you familiar with what has been  
 9 referred to as the grand bargain?  
 10 A. Yes.  
 11 Q. Are you aware that the DIA has  
 12 pledged a \$100 million contribution to the  
 13 museum?  
 14 A. Yes.  
 15 Q. Maybe I should say the DIA Corp.  
 16 has pledged a \$100 million contribution to the  
 17 museum?  
 18 A. Yes.  
 19 Q. Would you agree that your  
 20 valuation, without applying any discount  
 21 factors, far exceeds the 100 million  
 22 contribution?  
 23 MR. IRWIN: Form.  
 24 A. I don't know. I am not following  
 25 your logic, nor do I understand what you're

1 Michael Plummer  
 2 asking.  
 3 Q. The valuation you have, if you  
 4 don't apply your discounts to it; the valuation  
 5 you have of the art exceeds the \$100 million  
 6 contribution that's being pledged by the DIA  
 7 Corp., correct?  
 8 A. Yes.  
 9 Q. Would you agree that even in the  
 10 worst-case scenario that you present, the value  
 11 of the DIA collection far exceeds the \$100  
 12 million pledged by the DIA Corp.?  
 13 MR. O'REILLY: Form.  
 14 A. Yes.  
 15 Q. Let's look at pages 39 and 40 of  
 16 your report. On pages 39 and 40 you critique  
 17 the bids that were received by Houlihan for the  
 18 collection, correct?  
 19 A. Correct.  
 20 Q. What's the basis for your critique?  
 21 MR. O'REILLY: Form.  
 22 A. Looking at the -- what was in the  
 23 Houlihan Lokey materials in terms of what was on  
 24 offer.  
 25 Q. I might have asked you this about

1 Michael Plummer  
2 some of them, but let me ask you about all. Did  
3 you contact any of the proposed bidders that  
4 were included in the Houlihan report?

5 A. No, I did not.

6 Q. Let's turn to your critique of  
7 Christie's recommendations that are on page 42.  
8 Do you see that?

9 A. Um-hum.

10 Q. You say that Christie's was, by the  
11 time they completed this section of their  
12 report, dis-incentivized to develop this line of  
13 argument fully, possibly due to market backlash  
14 from the DIA and other market participants. Do  
15 you see that?

16 A. Um-hum.

17 Q. What's the basis for that  
18 statement?

19 A. As I said, the comment by someone  
20 at Christie's who was off the record.

21 Q. That's it?

22 A. Well, and also my own reading of  
23 those proposals and how flimsy they were and  
24 un-flushed out, as I say here. They didn't  
25 really seem like they were given anything other

1 Michael Plummer  
2 than a passing thought. There were no expenses,  
3 no revenues, no timelines; it was just really a  
4 cursory examination.

5 Q. Did you speak with the person who  
6 put that analysis together at Christie's to  
7 discuss --

8 A. I did not.

9 MR. IRWIN: Let him finish.

10 Q. -- to discuss with that person what  
11 he was intending to do with these potential  
12 alternatives?

13 A. I did not.

14 Q. Have you since you read their  
15 report?

16 A. I have not.

17 Q. On page 42, paragraph 69, you state  
18 further that Christie's "no longer has in-house  
19 intellectual capital to conduct their  
20 monetization analysis." Do you see that?

21 A. Um-hum.

22 Q. What's the basis of that statement?

23 A. I was an in-house at Intellectual  
24 Capital and I am no longer with the firm, and my  
25 business partner Jeff as well.

1 Michael Plummer

2 Q. So it's your position that in its  
3 current iteration, Christie's does not have the  
4 capability to do this analysis?

5 A. Yes.

6 Q. Did you talk to anybody at  
7 Christie's about that opinion?

8 MR. O'REILLY: Form.

9 A. Let's just say I am aware of their  
10 searches for staff and whatnot and know that  
11 they are -- they do not have that capital,  
12 intellectual capital.

13 Q. Would you be surprised to find out  
14 that they disagree with that statement?

15 A. No, I'm not surprised at all.

16 Q. You mentioned that Christie's  
17 Financial Services Group was terminated in 2009,  
18 correct?

19 A. Correct.

20 Q. And that's who you worked for,  
21 correct?

22 A. Correct.

23 Q. Is there no one else at Christie's  
24 capable of conducting an assessment of  
25 monetization alternatives for a museum, in your

1 Michael Plummer  
2 opinion?

3 A. I don't think that -- if there is,  
4 they certainly didn't do it in this exercise.

5 Q. So in terms of the alternative to  
6 monetization schemes that you referred to, your  
7 evaluation assumes they will be sold, correct?

8 A. I'm sorry, can you ask that again,  
9 please?

10 Q. Your evaluation and all of your  
11 values and your charts assume the art is going  
12 to be sold, correct?

13 MR. IRWIN: Form.

14 A. I am not sure. I can't answer that  
15 question in that way that you asked it because  
16 what I do is value the collection if it were to  
17 be sold. I'm not assuming that it's being sold.

18 Q. Let me ask it differently then.  
19 Your valuations are based on a proposed sale of  
20 the art, correct?

21 A. These are results that would be the  
22 result of a sale, but I'm not assuming it will  
23 be sold.

24 Q. But they're based on a proposed  
25 sale, correct?

<p style="text-align: right;">Page 305</p> <p>1 Michael Plummer</p> <p>2 A. Correct.</p> <p>3 Q. Did you consider, aside from</p> <p>4 critiquing Christie's alternatives to a sale;</p> <p>5 did you consider alternatives to a sale ways to</p> <p>6 monetize the art collection at the DIA, other</p> <p>7 than a sale?</p> <p>8 A. I did not.</p> <p>9 Q. Have you or Artvest ever</p> <p>10 participated in the collateralization of</p> <p>11 artworks?</p> <p>12 A. What do you mean by that?</p> <p>13 Q. You talked about being involved in</p> <p>14 loans before, art loans you called them?</p> <p>15 A. Right.</p> <p>16 Q. To me that means the art is being</p> <p>17 used as collateral for a loan, correct?</p> <p>18 A. Correct.</p> <p>19 Q. So have you or Artvest ever</p> <p>20 participated in the collateralization of any</p> <p>21 artwork in any form, whether it's in a loan or</p> <p>22 some other way?</p> <p>23 A. Are you asking me if I played a</p> <p>24 role in art being used as collateral in a loan?</p> <p>25 Q. Yes.</p>	<p style="text-align: right;">Page 307</p> <p>1 Michael Plummer</p> <p>2 Q. Is it your testimony that based on</p> <p>3 those valuations, you think the most they could</p> <p>4 get is 50 percent of those valuations because</p> <p>5 it's a loan?</p> <p>6 MR. O'REILLY: Objection to the</p> <p>7 form.</p> <p>8 A. Under standard lending practices</p> <p>9 they would only be able to get 50 percent.</p> <p>10 According to the offer from Art Capital Group</p> <p>11 he's offering 20 percent, which is a really low</p> <p>12 number in our practices.</p> <p>13 Whenever a loan is discussed the</p> <p>14 issue that I keep coming back to is who is going</p> <p>15 to service the debt, which is substantial, and</p> <p>16 who's going to pay off the loan, because I'm</p> <p>17 working through a bankruptcy situation right now</p> <p>18 with a client, if the loan isn't paid off the</p> <p>19 lender gets to sell the art.</p> <p>20 So, in effect, if you have a loan</p> <p>21 for let's say half of the value of the</p> <p>22 collection and you can't pay that back,</p> <p>23 basically you have sold that collection to the</p> <p>24 lender for half of the value of its worth.</p> <p>25 Q. Let me see if I'm understanding</p>
<p style="text-align: right;">Page 306</p> <p>1 Michael Plummer</p> <p>2 A. Yes, many times.</p> <p>3 Q. You've testified about -- you</p> <p>4 guesstimated at a number, but you testified</p> <p>5 about your work with art lenders during your</p> <p>6 testimony today, correct?</p> <p>7 MR. O'REILLY: Form.</p> <p>8 Q. Correct?</p> <p>9 A. Correct.</p> <p>10 Q. How much would you advise the City</p> <p>11 of Detroit it could get as a loan using the</p> <p>12 DIA's entire collection as collateral?</p> <p>13 A. Well, I think that presupposes I</p> <p>14 would advise them to do that.</p> <p>15 Q. No, it doesn't, I'm just asking you</p> <p>16 the question. Assuming there was going to be a</p> <p>17 loan, how much would you advise the City of</p> <p>18 Detroit it could get as a loan if it used the</p> <p>19 DIA's collection as collateral?</p> <p>20 A. I can't answer that without knowing</p> <p>21 where the funds would come from and how they</p> <p>22 would be paid back.</p> <p>23 Q. You have the valuations that you</p> <p>24 went through, correct?</p> <p>25 A. I understand that.</p>	<p style="text-align: right;">Page 308</p> <p>1 Michael Plummer</p> <p>2 your testimony here. So what you're saying then</p> <p>3 is if you were going to take a loan against the</p> <p>4 art of the DIA, it's your view that you would</p> <p>5 probably be limited to 50 percent of the</p> <p>6 valuations that you gave, correct?</p> <p>7 MR. IRWIN: Asked and answered.</p> <p>8 Q. That's one of the parts of the</p> <p>9 answer, correct?</p> <p>10 A. Correct.</p> <p>11 Q. The other part of the answer is you</p> <p>12 would have to be able to put together some sort</p> <p>13 of a plan to pay for the cost of that loan,</p> <p>14 correct?</p> <p>15 A. Correct.</p> <p>16 Q. Both the interest on the loan and</p> <p>17 ultimately to pay the loan back, correct?</p> <p>18 A. Correct.</p> <p>19 Q. So, in essence, if there were a</p> <p>20 Plan of Adjustment that were put together for</p> <p>21 the City of Detroit in connection with a Chapter</p> <p>22 9 proceeding, that indeed took into account</p> <p>23 whatever the cost of the loan would be, and the</p> <p>24 repayment of the loan over whatever is the</p> <p>25 appropriate period of time negotiated by the</p>

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<p style="text-align: right;">Page 309</p> <p>1 Michael Plummer</p> <p>2 parties, you would expect that they could then</p> <p>3 possibly get a loan for 50 percent of the value</p> <p>4 of the art as you've valued it, correct?</p> <p>5 MR. IRWIN: Form.</p> <p>6 A. Yeah, if they have a strategy that</p> <p>7 accomplishes all of those things.</p> <p>8 Q. Give me a second because I think</p> <p>9 you've answered a lot of this. This is</p> <p>10 something that I don't know that you testified</p> <p>11 about but I'm not understanding, maybe you have.</p> <p>12 On page 43, paragraph 71 G?</p> <p>13 A. 70 G.</p> <p>14 Q. Oh, yeah, sorry. It says, it seems</p> <p>15 to say:</p> <p>16 "Most asset-backed lenders have</p> <p>17 extreme provisions for the lender in a situation</p> <p>18 of default, levying both higher interest rates</p> <p>19 and onerous "agency" fees to liquidate the</p> <p>20 property."</p> <p>21 So here all you're saying is look,</p> <p>22 if there were a default, the typical asset-based</p> <p>23 lender or art lender has these kinds of</p> <p>24 provisions; that's all you're saying?</p> <p>25 A. Well, yes; but I perhaps could have</p>	<p style="text-align: right;">Page 311</p> <p>1 Michael Plummer</p> <p>2 how long it would take, where the money would</p> <p>3 come from. The fact that most other</p> <p>4 institutions having already very aggressive and</p> <p>5 ambitious development plans which are outlined</p> <p>6 below.</p> <p>7 It was my opinion that this was an</p> <p>8 idea that was not substantiated in any way,</p> <p>9 shape or form and that also would take an</p> <p>10 enormous amount of time to implement, and it</p> <p>11 wasn't discussed how it could be done in an</p> <p>12 expeditious way.</p> <p>13 Q. But you recognize that there are</p> <p>14 many very young museums that have just been</p> <p>15 created throughout the country, correct?</p> <p>16 A. Yes, but that doesn't mean they're</p> <p>17 funded well enough to come up with the kinds of</p> <p>18 moneys that you're talking about.</p> <p>19 Q. And also throughout the world, I</p> <p>20 don't know why I limit it to the country --</p> <p>21 we've board them, that's all right, I'm still</p> <p>22 interested.</p> <p>23 A. There are. But again, I think it's</p> <p>24 an idea that is not flushed out well enough to</p> <p>25 be taken seriously.</p>
<p style="text-align: right;">Page 310</p> <p>1 Michael Plummer</p> <p>2 gone on to say more, which is that oftentimes</p> <p>3 those default terms are vaguely written and</p> <p>4 clients end up in default unknowingly or</p> <p>5 unwillingly.</p> <p>6 Q. If there is going to be some kind</p> <p>7 of a monetization of the art, like through a</p> <p>8 loan or something like that, you should get</p> <p>9 lawyers like the ones you have here for the DIA</p> <p>10 to help them make sure that that doesn't happen,</p> <p>11 correct?</p> <p>12 A. Or ones like you.</p> <p>13 Q. Have you or anyone else at Artvest</p> <p>14 ever participated in the creation of a</p> <p>15 masterpiece trust?</p> <p>16 A. No, I haven't.</p> <p>17 Q. On page 45 of your report you say</p> <p>18 the creation of a Masterpiece Trust to be</p> <p>19 accessed by members of a museum consortium is</p> <p>20 too blue-sky.</p> <p>21 Am I reading that right? It says</p> <p>22 too blue-sky to be substantively helpful?</p> <p>23 A. Yes.</p> <p>24 Q. What is the basis of that opinion?</p> <p>25 A. Well, because they did not describe</p>	<p style="text-align: right;">Page 312</p> <p>1 Michael Plummer</p> <p>2 Q. Are you aware of any meaningful</p> <p>3 masterpiece trusts that have been put in place</p> <p>4 by other museums?</p> <p>5 A. I am not. That doesn't mean they</p> <p>6 may not exist, but I am not.</p> <p>7 Q. Did you do any studies to determine</p> <p>8 whether there were any other masterpiece trusts</p> <p>9 being used by museums in the world to monetize</p> <p>10 their art?</p> <p>11 A. I did not.</p> <p>12 Q. Have you or Artvest ever</p> <p>13 participated in structuring long-term leases of</p> <p>14 artwork?</p> <p>15 A. No.</p> <p>16 Q. What experience do you or Artvest</p> <p>17 have in connection with structuring long-term</p> <p>18 leases of artwork at all?</p> <p>19 A. We haven't, that's not in our line</p> <p>20 of business.</p> <p>21 Q. On page 44, paragraph 71, you</p> <p>22 state:</p> <p>23 "This option would have the same</p> <p>24 effect of depriving the DIA of some of its most</p> <p>25 prized works, yet for far less of a financial</p>

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<p style="text-align: right;">Page 313</p> <p>1 Michael Plummer</p> <p>2 benefit. Based on deals made with other partner</p> <p>3 museums, Guggenheim Museum &amp; Bilbao, Guggenheim</p> <p>4 &amp; Abu Dhabi and the Louvre &amp; Abu Dhabi, such an</p> <p>5 arrangement would be unlikely to net more than</p> <p>6 20 million to 100 million in total for a 10 to</p> <p>7 15 year deal and would result in the removal of</p> <p>8 many high value works from the walls of the</p> <p>9 DIA."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. What is the basis of that opinion?</p> <p>13 A. The situations I lay out below, A</p> <p>14 through E.</p> <p>15 Q. Other than what you lay out in A</p> <p>16 through E, is there anything else that you base</p> <p>17 that opinion on?</p> <p>18 A. F through G.</p> <p>19 Q. Okay. Other than A through G, is</p> <p>20 there anything else?</p> <p>21 A. No.</p> <p>22 Q. So I read A through G, and I'm</p> <p>23 wondering where did the calculations come from</p> <p>24 that you used to come up with the numbers that</p> <p>25 you have here, were they in some public</p>	<p style="text-align: right;">Page 315</p> <p>1 Michael Plummer</p> <p>2 institution."</p> <p>3 A. Did I prepare any?</p> <p>4 Q. Did you do any analysis to support</p> <p>5 that conclusion?</p> <p>6 A. I did not.</p> <p>7 Q. Did you speak to any donors --</p> <p>8 A. Let me correct that. You threw me</p> <p>9 off with the question. As I said, I did talk to</p> <p>10 several museum people, which I cannot divulge</p> <p>11 because they were off-the-record conversations.</p> <p>12 Q. Did you speak to any donors</p> <p>13 regarding their interest in a sale and permanent</p> <p>14 loan program?</p> <p>15 A. I did not speak to any donors, but</p> <p>16 I did speak to an expert on donors who was</p> <p>17 responsible for many of the major gifts at</p> <p>18 various museums and has a tremendous insight</p> <p>19 into donor mentality.</p> <p>20 Q. Who was that?</p> <p>21 A. Again, it was an off-the-record</p> <p>22 conversation.</p> <p>23 Q. So other than the off-the-record</p> <p>24 conversation that you're referring to, did you</p> <p>25 do any additional analysis?</p>
<p style="text-align: right;">Page 314</p> <p>1 Michael Plummer</p> <p>2 documents?</p> <p>3 A. They were in the documents</p> <p>4 referenced here. They're in several of the</p> <p>5 press reports.</p> <p>6 Q. So other than what you sent us and</p> <p>7 what you referenced, the press reports, that's</p> <p>8 what you relied on?</p> <p>9 A. That's what I relied upon.</p> <p>10 Q. Have you or Artvest ever</p> <p>11 participated in the sale and permanent loan of</p> <p>12 artwork?</p> <p>13 A. That's a confusing question. The</p> <p>14 sale and permanent loan, are you meaning to</p> <p>15 combine both as to one question?</p> <p>16 Q. I think what I'm referring to here</p> <p>17 on page 46, Christie's recommendation 4?</p> <p>18 A. Yes. I see what you're asking.</p> <p>19 No, we have not. I have not.</p> <p>20 Q. Did you conduct any analysis before</p> <p>21 you arrived at the conclusion that you state in</p> <p>22 paragraph 75? And I'm reading it:</p> <p>23 "It is hard to imagine how this</p> <p>24 type of program would attract a new type of</p> <p>25 donor who is not already supporting the</p>	<p style="text-align: right;">Page 316</p> <p>1 Michael Plummer</p> <p>2 A. No, I did not.</p> <p>3 Q. Have you or Artvest ever</p> <p>4 participated in coordinating, and you may have</p> <p>5 because you worked with the fair, in</p> <p>6 coordinating a traveling exhibition?</p> <p>7 A. In coordinating a traveling</p> <p>8 exhibition?</p> <p>9 Q. Yes.</p> <p>10 A. No, we have not.</p> <p>11 Q. On page 46 of paragraph 76. You</p> <p>12 state:</p> <p>13 "By Christie's own admission, this</p> <p>14 a less than desirable alternative, as such</p> <p>15 expositions are "costly to mount" and raise very</p> <p>16 little relative to their total expense." Do you</p> <p>17 see that?</p> <p>18 A. Yes.</p> <p>19 Q. And it goes on to state "Such</p> <p>20 revenues range from as little as 20,000 for</p> <p>21 small exhibitions to 600,000 for blockbuster</p> <p>22 exhibitions."</p> <p>23 What is the basis of that</p> <p>24 statement?</p> <p>25 A. The museum administrative officials</p>

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<p style="text-align: right;">Page 317</p> <p>1 Michael Plummer</p> <p>2 that I referred to previously have handled the</p> <p>3 budgets for such exhibits.</p> <p>4 Q. Is that someone that you can't</p> <p>5 divulge at this point?</p> <p>6 A. It's in that same group of people I</p> <p>7 mentioned before.</p> <p>8 Q. So you state that you have -- other</p> <p>9 than that statement, you've had no experience</p> <p>10 with any of these traveling, whatever they call</p> <p>11 it, traveling exhibitions, correct?</p> <p>12 A. Back in my Acoustiguide days I</p> <p>13 actually was dealing with the financial -- I was</p> <p>14 working with the museums and their setting up of</p> <p>15 those exhibitions, and their profits that they</p> <p>16 expected to get from their audio tours and other</p> <p>17 things, and their attendance numbers based on</p> <p>18 the exhibition and that sort of thing. So I did</p> <p>19 have experience back in that part of my career.</p> <p>20 Q. That would have been a long time</p> <p>21 ago, correct?</p> <p>22 A. That would have been a long time</p> <p>23 ago.</p> <p>24 Q. Counting for inflation and other</p> <p>25 expenses, you're not aware of what they cost</p>	<p style="text-align: right;">Page 319</p> <p>1 Michael Plummer</p> <p>2 million the DIA has already committed as its</p> <p>3 contribution to the grand bargain." Do you see</p> <p>4 that?</p> <p>5 A. Um-hum.</p> <p>6 Q. What's the basis for that</p> <p>7 statement?</p> <p>8 A. What I've laid out in the report</p> <p>9 thus far.</p> <p>10 Q. Other than what you've testified</p> <p>11 about today and what you've laid out in your</p> <p>12 report; is there any other source or information</p> <p>13 you're relying on for that opinion?</p> <p>14 A. I have nothing supplemental to</p> <p>15 provide here today.</p> <p>16 Q. Other than what you've testified</p> <p>17 about today and what you referred to in your</p> <p>18 report, you haven't done any additional</p> <p>19 analysis?</p> <p>20 A. Not other than what is here and</p> <p>21 I've testified to.</p> <p>22 Q. Were you asked to render an opinion</p> <p>23 regarding the cultural impact of the museum, the</p> <p>24 DIA, on the City of Detroit?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 318</p> <p>1 Michael Plummer</p> <p>2 now, are you?</p> <p>3 A. Yes, I am, because these numbers</p> <p>4 came from talking to museum people this year,</p> <p>5 just recently.</p> <p>6 Q. Is there any either publicly</p> <p>7 available or privately available study or data</p> <p>8 that you can refer to for the basis of your</p> <p>9 calculation?</p> <p>10 A. No.</p> <p>11 Q. Other than the conversation you</p> <p>12 had, correct?</p> <p>13 A. Correct.</p> <p>14 Q. Do you know what that person was</p> <p>15 basing it on?</p> <p>16 A. They were basing it on their own</p> <p>17 in-house experience of exhibitions.</p> <p>18 Q. So on page 48 of your report.</p> <p>19 Looking at paragraph C:</p> <p>20 "My review of the practicality and</p> <p>21 the reasonableness of the monetization</p> <p>22 alternatives described in Christie's preliminary</p> <p>23 report to the City of Detroit: They do not have</p> <p>24 a reasonable expectation of either raising</p> <p>25 meaningful money or exceeding even the \$100</p>	<p style="text-align: right;">Page 320</p> <p>1 Michael Plummer</p> <p>2 Q. Looking at page 48, paragraph 78.</p> <p>3 It says as I'm reading it:</p> <p>4 "Rather than being a source of cash</p> <p>5 to creditors or a burden on the current city, in</p> <p>6 fact, the DIA is the single, most important</p> <p>7 cultural asset the City currently owns for</p> <p>8 rebuilding the vitality of the City." Do you</p> <p>9 see that?</p> <p>10 A. I do.</p> <p>11 Q. Did you write that statement?</p> <p>12 A. I did.</p> <p>13 Q. What is the basis of that</p> <p>14 statement?</p> <p>15 A. My opinion.</p> <p>16 Q. Your personal opinion?</p> <p>17 A. My personal opinion based on my</p> <p>18 years of experience in the art industry.</p> <p>19 Q. That opinion isn't dealing with</p> <p>20 anything to do with the art industry, it's</p> <p>21 dealing with the cultural impact of the museum</p> <p>22 on the City of Detroit, correct?</p> <p>23 A. It's dealing with the DIA as an art</p> <p>24 institution and the impact of art institutions</p> <p>25 in the city.</p>

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<p style="text-align: right;">Page 321</p> <p>1 Michael Plummer</p> <p>2 Q. What experience do you have in</p> <p>3 valuing cultural assets like the statement you</p> <p>4 made there?</p> <p>5 A. I don't have experience.</p> <p>6 MR. SOTO: I don't have any other</p> <p>7 questions. I thank you very much Mr. Plummer</p> <p>8 for your patience with me. Any other questions</p> <p>9 from anyone?</p> <p>10 MR. O'REILLY: No questions.</p> <p>11 MR. SOTO: Anyone on the phone? In</p> <p>12 which case this concludes our deposition. You</p> <p>13 have a right to review the testimony, and in</p> <p>14 reviewing it you can certainly fix grammatical</p> <p>15 errors, things that you see as misspellings or</p> <p>16 things like that, things that you think might</p> <p>17 have been taken down wrong.</p> <p>18 You don't get to substantively</p> <p>19 change your testimony, unless of course you say</p> <p>20 no I meant not, and there's no not in there,</p> <p>21 then that's a different issue. So you'll get a</p> <p>22 chance to do that and you can coordinate that</p> <p>23 with your counsel.</p> <p>24 THE WITNESS: Okay.</p> <p>25 THE VIDEOGRAPHER: The time is 5:45</p>	<p style="text-align: right;">Page 323</p> <p>1 ERRATA</p> <p>2 I, MICHAEL PLUMMER, wish to make the</p> <p>3 following changes, for the following reasons:</p> <p>4 PAGE LINE</p> <p>5 _____ CHANGE: _____</p> <p>6 REASON: _____</p> <p>7 _____ CHANGE: _____</p> <p>8 REASON: _____</p> <p>9 _____ CHANGE: _____</p> <p>10 REASON: _____</p> <p>11 _____ CHANGE: _____</p> <p>12 REASON: _____</p> <p>13 _____ CHANGE: _____</p> <p>14 REASON: _____</p> <p>15 _____ CHANGE: _____</p> <p>16 REASON: _____</p> <p>17 _____ CHANGE: _____</p> <p>18 REASON: _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 WITNESS' SIGNATURE DATE</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p>
<p style="text-align: right;">Page 322</p> <p>1 Michael Plummer</p> <p>2 p.m. August 1, 2014, this completes today's</p> <p>3 video deposition of Michael Plummer.</p> <p>4 (Time Noted: 5:45 p.m.)</p> <p>5</p> <p>6 -----</p> <p>7 MICHAEL PLUMMER</p> <p>8</p> <p>9 Subscribed and sworn to before me</p> <p>10 this day of , 2014.</p> <p>11</p> <p>12 -----</p> <p>13 Notary Public</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 324</p> <p>1 C E R T I F I C A T E</p> <p>2</p> <p>3 I, Roberta Caiola, a Shorthand</p> <p>4 Reporter and Notary Public within and</p> <p>5 for the State of New York, do hereby</p> <p>6 certify:</p> <p>7</p> <p>8 That the statements, colloquy</p> <p>9 and testimony contained herein is a</p> <p>10 true record of the proceedings in this</p> <p>11 matter.</p> <p>12</p> <p>13 I further certify that I am</p> <p>14 not related to any of the parties</p> <p>15 involved in this proceeding, and that</p> <p>16 I am in no way interested in the</p> <p>17 outcome of this matter.</p> <p>18</p> <p>19</p> <p>20 -----</p> <p>21 ROBERTA CAIOLA</p> <p>22 Dated: August 3, 2014</p> <p>23</p> <p>24</p> <p>25</p>

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